

AGENDA
FLORIDA DEPARTMENT OF REVENUE

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MEMBERS

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

April 2, 2013

Contacts: Andrea Moreland, Legislative and Cabinet
Services Director, (850-617-8324)
MaryAnn Murphy, Executive Asst. II
(850-717-7138)

9:00 a.m.
Flagler College
Ponce de Leon Room
74 King Street
St. Augustine, Florida 32084

<u>ITEM</u>	<u>SUBJECT</u>	<u>RECOMMENDATION</u>
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1. Respectfully request approval of the minutes of the December 11, 2012, meeting.

(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, the following 39 rules identified during the 2011 comprehensive rule review as unnecessary or obsolete.

Child Support Enforcement:

12E-1.001	12E-1.002	12E-1.003	12E-1.004	12E-1.005	12E-1.009
12E-1.013	12E-1.016	12E-1.017	12E-1.019	12E-1.020	12E-1.024
12E-1.025	12E-1.026				

General Tax Administration:

12A-1.003	12A-1.068	12A-3.001	12A-3.002	12A-3.006	12A-8.001
12A-8.002	12A-9.001	12A-9.002	12A-10.001	12A-10.002	12B-7.003
12B-7.022	12C-1.318	12-2.021	12-2.027	12-2.028	12-3.006
12-15.001	12-15.005	12-19.001	12-22.001	12-22.003	12-22.004
12-24.030					

(ATTACHMENT 2)

RECOMMEND APPROVAL

3. Respectfully request adoption of, and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, the following rules identified during the 2011 comprehensive rule review as needing to be updated, clarified, or revised to remove outdated provisions.

Child Support Enforcement: 12E-1.015

General Tax Administration:

12A-1.014	12A-1.034	12A-1.035	12A-1.0371	12A-1.038	12A-1.039
12A-1.044	12A-1.056	12A-1.059	12A-1.061	12A-1.064	12A-1.0641
12A-1.0911	12A-1.097	12A-13.001	12A-13.002	12A-19.050	12A-19.100
12B-5.090	12B-5.100	12B-5.150	12B-5.200	12B-7.004	12B-7.008
12B-7.026	12B-12.007	12C-2.0115	12C-2.012	12C-3.010	12-18.008
12-22.002	12-22.005	12-24.011	12-24.028		

(ATTACHMENT 3)

RECOMMEND APPROVAL

4. Respectfully request approval and authority to publish a Notice of Proposed Rule in the Florida Administrative Register to clarify the application of the documentary stamp tax in a bankruptcy proceeding.

Documentary Stamp Tax

Rules 12B-4.013, 12B-4.014, and 12B-4.054

(ATTACHMENT 4)

RECOMMEND APPROVAL

5. Agency Update

(ATTACHMENT 5)

INFORMATION ONLY

ATTACHMENT 1

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

DEPARTMENT OF VETERANS AFFAIRS
GULF REGIONAL AIRSPACE STRATEGIC INITIATIVE
BOARD OF TRUSTEES
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
DEPARTMENT OF REVENUE
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
OFFICE OF INSURANCE REGULATION
DIVISION OF BOND FINANCE

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
December 11, 2012, commencing at 9:00 a.m.

Reported by:
CAROLYN L. RANKINE
Register Professional Reporter
Notary Public

ACCURATE STENOTYPE REPORTERS, INC.
2894 REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

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DEPARTMENT OF VETERANS AFFAIRS
(Presented, by MIKE PRENDERGAST)

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1 GOVERNOR SCOTT: I now would like to
2 recognize the Interim Executive Director
3 Marshall Stranburg of the Department of
4 Revenue. Good morning, Marshall.

5 INTERIM EXEC. DIR. STRANBURG: Good
6 morning, Governor and Members of the Cabinet:
7 General Bondi, CFO Atwater, and Commissioner
8 Putnam. Our first agenda item is we
9 respectfully request approval of the minutes of
10 the September 18, 2012 meeting.

11 GOVERNOR SCOTT: Is there a motion to
12 approve?

13 ATTORNEY GENERAL BONDI: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 COMMISSIONER PUTNAM: Second.

16 GOVERNOR SCOTT: Any objections?

17 (No response.)

18 GOVERNOR SCOTT: Hearing none, motion
19 carries.

20 INTERIM EXEC. DIR. STRANBURG: Thank you.
21 Our second item is -- and again we respectfully
22 request approval and we are submitting to you
23 the Department's legislative budget request for
24 2013-2014. The two major items -- well, three
25 major items actually in that request are:

1 first of all, continued funding for the
2 Department's work in developing the one-stop
3 business registration portal for the state.

4 The second item is additional funding, a
5 trust funding authority to continue to develop
6 our computerized -- or excuse me -- Child
7 Support Enforcement Automated Management System
8 known as our CAM system. We brought that up
9 this past year and we have some operational and
10 maintenance items that we will need to be
11 assured that system is functioning properly as
12 we are utilizing this program next year.

13 And the third item is to work on an email
14 solution for the Department. We are on an
15 antiquated email system and are in need of a
16 fix of that. And we have been interacting with
17 your staff, Governor, and Members of the
18 Legislature, something that's going to be a
19 little more of a comprehensive solution that we
20 would be a part of. So again we request
21 approval of our legislative budget request.

22 GOVERNOR SCOTT: Is there a motion to
23 approve?

24 ATTORNEY GENERAL BONDI: So move.

25 GOVERNOR SCOTT: Is there a second?

1 CFO ATWATER: Second.

2 GOVERNOR SCOTT: Florida law requires me
3 to independently submit budget proposals,
4 accordingly I'm abstaining from the vote on
5 this item and the record should reflect my
6 abstention. Any other comments or objections?

7 ATTORNEY GENERAL BONDI: No.

8 GOVERNOR SCOTT: Hearing none the motion
9 is approved with one abstention.

10 INTERIM EXEC. DIR. STRANBURG: Thank you.
11 Our third item is we respectfully submit our
12 request for approval of the Department's 2013
13 proposed legislative concepts, child support,
14 our general tax administration programs
15 primarily. Most of these items with one
16 exception are repeats from prior years.
17 Briefly I'll just go over them quickly.

18 In our general tax area include the annual
19 corporate piggyback bill, some corrections,
20 eliminate some issues with a criminal statute
21 that was amended a number of years ago, to
22 clean that up. We're also looking to get a
23 process whereby we can get identity
24 confirmation through use of the DHSMV database,
25 and also the one new item is -- in the general

1 tax area -- is to increase compromise authority
2 for the Department of Revenue.

3 In our child support area to clarify that
4 requests for informal conferences with the
5 Department can be made in writing, and we have
6 a couple of items where we are seeking to
7 change the way in which we provide notice to
8 folks on -- for those captions, to collect
9 support and deleting a requirement that we send
10 those notices by registered mail and do that by
11 regular mail.

12 GOVERNOR SCOTT: All right. Is there a
13 motion to approve?

14 COMMISSIONER PUTNAM: I have a question.

15 GOVERNOR SCOTT: Go ahead.

16 COMMISSIONER PUTNAM: Governor, two
17 questions. The first one, you're deleting the
18 registered mail requirement so there will --
19 there will not be any registered mail
20 requirement or you will be allowed to use
21 regular mail after you've sent one registered
22 mail letter.

23 INTERIM EXEC. DIR. STRANBURG:

24 Commissioner Putnam, it would be to delete the
25 requirement to do the registered mail at all.

1 So it would not be, as you point out, a second
2 letter following the registered mail, it would
3 be by like regular mail. This would eliminate
4 the requirement to do the registered mail and
5 we would just do it by regular mail.

6 COMMISSIONER PUTNAM: So there would never
7 be a paper trail that you attempted to contact
8 the person before the consequences of that
9 would take place.

10 INTERIM EXEC. DIR. STRANBURG: There would
11 be a paper trail in that we would -- the burden
12 still would be on the Department to show that
13 we did provide notice. We would have to show
14 that we did have what we believed to be a
15 current address on file for that particular
16 child support obligor, that our processes were
17 followed in order to send that, that we have a
18 system in place whereby this is a way in which
19 those notices are sent. So the burden still
20 would be upon us to show that we made an
21 attempt to provide that notice to that obligor,
22 it's just the fact that it would not be
23 verified by a registered mailing process, it
24 would be our normal process for handling the
25 notifications.

1 COMMISSIONER PUTNAM: So how many times
2 would you attempt to contact somebody before
3 you start taking their money?

4 INTERIM EXEC. DIR. STRANBURG: We would
5 utilize this one time, that this one mailing is
6 what we would be using to contact them. And we
7 also do have in place a process whereby if we
8 have sent out a notice, if we have proceeded to
9 levy on that account, because this is dealing
10 with garnishment and levies.

11 Whereby if someone would come in after we
12 had provided that notice and after we've taken
13 steps to execute on that levy, if they would
14 come to us there is a process whereby,
15 essentially after the fact they could come to
16 us and say, Department, we think you're
17 mistaken, and your action here, we think you
18 need to stop the process or either return the
19 money to us and make sure that I am either the
20 right person, or that this is actually money
21 that you should be garnishing. So there is an
22 additional after-the-fact protection that is
23 built in place here as well as a notice
24 provided for that we would send them before the
25 action is to be taken.

1 COMMISSIONER PUTNAM: I'm not -- this
2 seems inadequate to me for a government taking
3 somebody's hard-earned wages given the
4 uncertainty of the U.S. Postal Service and
5 given the -- the opportunity for there to be
6 name duplication and things like that.

7 INTERIM EXEC. DIR. STRANBURG: I
8 understand your concern and we are very -- we
9 are very cautious in taking these actions. We
10 have in our databases a wide breadth of
11 information that we gather so that we want to
12 be certain. We are not looking to levy on
13 someone who is not that person that has that
14 child support obligation that they're owed.

15 You know, we see this on a couple of
16 different fronts and one is: yes, it would be
17 cost savings to the state, but as you point
18 out, Commissioner, we have to balance that
19 against making sure that we are adequately
20 notifying them that the state is proposing to
21 take this action.

22 And in a number of instances, we have
23 found this to be true in the other areas of
24 agencies, you know, a lot of times actually
25 sending them both registered mail, and

1 certified mail notices, people won't pick them
2 up. People limit when they're going to get
3 registered mail or certified mail delivery,
4 they usually know it's no good news coming your
5 way. So a lot of times they won't sign for
6 that letter, they won't pick up that letter,
7 and regular mail is probably a better way to
8 reach out to them for them to actually receive
9 a notice that there is a proposed action there
10 because they won't -- they'll look at that as
11 being bad news coming in the mail.

12 ATTORNEY GENERAL BONDI: Commissioner,
13 it's funny because I discussed this with my
14 staff at great length too because I was
15 troubled by it. But we discussed the same
16 thing about the registered letter, and these
17 are all people who have been deemed to be
18 behind child support by a court. So they're
19 probably the least likely people who are going
20 to pick up registered letter. And it's really
21 not -- it's unclaimed money, but these people
22 are behind in their child support and this is
23 money that shouldn't be theirs, it should go to
24 the --

25 COMMISSIONER PUTNAM: If they got the

1 right person.

2 ATTORNEY GENERAL BONDI: If -- right. If
3 they have the right person. And I agree with
4 you there.

5 GOVERNOR SCOTT: So let's go through --
6 where -- what money are we talking about?

7 INTERIM EXEC. DIR. STRANBURG: Well, we're
8 talking about -- this is money that's in hand
9 of a third party, say a bank, say someone else
10 of that nature is holding that obligor's money,
11 assets, things of that nature. We find that
12 there is money that is in the obligor's name in
13 that -- whether it's a mother or a father that
14 is due to pay child support and has, as General
15 Bondi points out, a delinquent account with the
16 Department.

17 So we are going to that third party saying
18 we need that money that belongs to this obligor
19 to have an unsatisfied child support case with
20 us, we are looking to get that money and take
21 that money and apply it to that child's support
22 that you're behind in paying.

23 GOVERNOR SCOTT: So the first thing is
24 it's not money that the individual is claiming
25 themselves. It's a third party that you

1 believe has money that's owed to somebody and
2 that person doesn't know it.

3 INTERIM EXEC. DIR. STRANBURG: No. I want
4 to correct that, Governor. That third -- that
5 obligor probably does say yes, that is my
6 money, they are recognizing that it is my
7 money. As I said, it could be some type of
8 bank account, you know, it could be another
9 asset held by a third party. It's just we know
10 that third party has that asset.

11 In order for us to try to make sure that
12 child is receiving adequate amount of support,
13 we have this information that has come to us
14 that we determined. Here's the bank account.
15 Instead of paying us that money, he's trying to
16 keep that money in the bank account and we're
17 looking to take it and apply it for that child
18 support debt.

19 ATTORNEY GENERAL BONDI: If it's
20 unclaimed, I don't think they currently know
21 they have the money. Because I got a letter
22 from CFO Atwater saying I have \$43 from
23 something in an account. So it's unclaimed.
24 But if you can answer Commissioner Putnam's
25 question: do you confirm that is the correct

1 individual before you take that money?

2 INTERIM EXEC. DIR. STRANBURG: We do. To
3 the best of our information, yes, that is what
4 we try to do. We try to confirm that it is
5 that individual. As I mentioned, we have
6 multiple sources of information. We are
7 checking, double checking, and triple checking
8 that he is that right person.

9 I don't think it would be right for me to
10 sit here and say to you that there isn't a
11 possibility that it could be the wrong
12 individual identified in some point in time, or
13 it could be in the name of someone and they
14 could say, well, that really isn't my money.
15 That's my mother's money, or that's another
16 child's money, so you shouldn't be taking money
17 that isn't my money to apply to my obligation
18 because it's someone else's money. So yes,
19 there could be some circumstances where that
20 might happen. But we do take every, every step
21 we can to ensure that we're getting the right
22 person before we take this kind of action.

23 GOVERNOR SCOTT: Any other comments or
24 questions?

25 COMMISSIONER PUTNAM: My second question

1 is your request to double your compromise
2 authority from a quarter-of-a-million to a
3 half-million dollars without -- essentially at
4 your discretion. How many instances per year
5 is that size compromised or forgiveness
6 utilized?

7 INTERIM EXEC. DIR. STRANBURG: I don't
8 have a specific number that I can tell you
9 right now, Commissioner, but we are seeing that
10 it's a growing number. There used to be not
11 very many cases where someone would come to us
12 and we would have a dispute with them about
13 whether taxes are owed or a refund is owed, and
14 the dollar amount now continues to climb in
15 some of those disputes.

16 So what businesses are telling us -- and
17 this is something actually we've had a number
18 of folks from outside the agency approach us
19 and suggest we come forth with, is they're
20 looking for a way to try to resolve that
21 dispute they have with the Department at the
22 earliest point in the process as possible so
23 that they're not having to spend funds,
24 resources, time in order to get this dispute
25 with the Department of Revenue behind them. So

1 we can look and see what kind of numbers that
2 possibly would generate, but I do know, I mean,
3 if you look at that number historically, it's
4 going this way.

5 COMMISSIONER PUTNAM: What's the
6 process -- what's the transparency of knowing
7 how often you do it, the factors that go into
8 that, I mean, there's a potential for...

9 INTERIM EXEC. DIR. STRANBURG: We have
10 within our rules in the Department of Revenue
11 that is based off of the statute two grounds
12 that we can do a compromise: (1) is where is
13 the status of liability, the other where there
14 is doubt as to the status of collectability.
15 And we have delegated within the agency varying
16 levels of approval for signing off on these
17 compromises.

18 So basically we would not have someone who
19 is the field agent signing off on large dollar
20 amounts without there being some level of sign-
21 off on that that goes above them. We have then
22 a process whereby our Inspector General's
23 Office on a periodic basis will come in and
24 review our internal approvals of these
25 compromises to make sure that we are including

1 in memorandums where we document those actions,
2 what was the basis for taking that action, and
3 was the requisite level of approval up the
4 chain and within the agency signed off on.

5 So that again we're verifying it's both
6 supported by the grounds that are in the
7 statute for compromising as well as is the
8 appropriate person is ultimately saying this
9 compromise is one that meets those statutory
10 grounds.

11 COMMISSIONER PUTNAM: So you believe you
12 need it doubled, but you don't know how often
13 you did it last year.

14 INTERIM EXEC. DIR. STRANBURG: I -- again
15 I don't have that number with me. I can
16 probably give you that number fairly quickly.
17 I don't have it off the top of my head,
18 Commissioner. But again I'm -- I'm -- the
19 Department did not generate this. We received
20 external comments from some of the folks that
21 we deal with, the Florida Institute of
22 Certified Public Accountants, the Tax Section
23 of The Florida Bar who have been supportive and
24 saying yes, they believe it would facilitate
25 the increased speed with which we can eliminate

1 a lot of these disputes which become burdensome
2 for taxpayers the longer they linger on the
3 books.

4 GOVERNOR SCOTT: All right. Any other
5 comments or questions?

6 ATTORNEY GENERAL BONDI: No.

7 GOVERNOR SCOTT: All right. Is there a
8 motion to approve?

9 CFO ATWATER: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 ATTORNEY GENERAL BONDI: Second.

12 GOVERNOR SCOTT: The Florida Constitution
13 requires me to independently act on all
14 legislation passed by the Florida Legislature,
15 therefore, I'm abstaining from voting on this
16 item and the record should reflect my
17 abstention. Hearing none the motion is
18 approve --

19 COMMISSIONER PUTNAM: Whoa, whoa, I
20 oppose. There's one voted in the neg --
21 there's two in the affirmative and one in the
22 negative.

23 GOVERNOR SCOTT: So hearing none the
24 motion is approved, with one abstention and one
25 objection.

1 INTERIM EXEC. DIR. STRANBURG: Thank you.
2 Item number 4 is we respectfully request
3 adoption and the approval to file and certify
4 with the Secretary of State under Chapter 120,
5 *Florida Statutes*, rules to reflect 2012 law
6 changes in the above general forms in the area
7 of general tax administration. These rules,
8 when we went through the hearing process, we
9 received no comments upon the rules and we
10 request approval.

11 GOVERNOR SCOTT: Is there a motion to
12 approve?

13 ATTORNEY GENERAL BONDI: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 CFO ATWATER: Second.

16 GOVERNOR SCOTT: Any comments or
17 objections?

18 (No response.)

19 GOVERNOR SCOTT: Hearing none the motion
20 carries.

21 INTERIM EXEC. DIR. STRANBURG: Thank you.
22 Item number 5. We respectfully request
23 approval to publish notice of proposed rule
24 activity in the *Florida Administrative Register*
25 to repeal 39 rules that were identified during

1 our rule review found to be unnecessary or
2 obsolete.

3 GOVERNOR SCOTT: Is there a motion to
4 approve?

5 ATTORNEY GENERAL BONDI: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 CFO ATWATER: Second.

8 ATTORNEY GENERAL BONDI: Any comments or
9 objections?

10 (No response.)

11 GOVERNOR SCOTT: Hearing none the motion
12 carries.

13 INTERIM EXEC. DIR. STRANBURG: Thank you.
14 Item 6, our last item, is we respectfully
15 request approval and authority to publish
16 notice of proposed rule activity in the *Florida*
17 *Administrative Register* to amend 35 rules which
18 were identified during that same comprehensive
19 rule review process that either had updates,
20 clarifications, revisions, or removals of
21 obsolete materials that were necessary.

22 GOVERNOR SCOTT: Is there a motion to
23 approve?

24 ATTORNEY GENERAL BONDI: So moved.

25 GOVERNOR SCOTT: Is there a second?

1 CFO ATWATER: Second.

2 GOVERNOR SCOTT: Any comments or
3 objections?

4 (No response.)

5 GOVERNOR SCOTT: Hearing none the motion
6 carries. Thank you, Marshall.

7 INTERIM EXEC. DIR. STRANBURG: Thank you.

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ATTACHMENT 2



Interim
Executive
Director
Marshall Stranburg

April 2, 2013

MEMORANDUM

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

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Cabinet Affairs
Erin Sumpter, Cabinet Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer
Services
Attention: Jim Boxold, Chief Cabinet Aide
Brooke McKnight, Cabinet Aide

THRU: Marshall Stranburg, Interim Executive Director

FROM: Andrea Moreland, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules –
*Issues Noted in the Comprehensive Rule Review Submitted to the Office of Fiscal
Accountability and Regulatory Reform in December 2011*

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

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

What is the Department Requesting? The Department requests final adoption of the following proposed rules, and approval to file and certify them with the Secretary of State under Chapter 120, Florida Statutes:

- Child Support Enforcement Program Office (*Chapter 12E-1, F.A.C.*)
- Sales and Use Tax (*Rules 12A-1.003 and 12A-1.068, F.A.C.*)
- Transient Rental Taxes (*Chapters 12A-3, 12A-8, 12A-9, and 12A-10*)
- Severance Taxes (*Chapter 12B-7, F.A.C.*)
- Administrative Rules (*Chapters 12-2, 12-3, 12-15, 12-19, 12-22, and 12-24, and Rule 12C-1.318, F.A.C.*)

Why are the proposed rules necessary? During the recent comprehensive review of the Department's general tax administration and child support enforcement rules submitted to the Office of Fiscal Accountability and Regulatory Reform in December 2011, provisions no longer necessary were identified. These rule changes are necessary to repeal those rules that are no longer necessary.

What do the proposed rules do?

Child Support Enforcement Program Office

- Repeals rules that were determined to be obsolete, inconsistent, or redundant. (*Rules 12E-1.001, 12E-1.002, 12E-1.003, 12E-1.004, 12E-1.005, 12E-1.009, 12E-1.013, 12E-1.016, 12E-1.017, 12E-1.019, 12E-1.020, 12E-1.024, 12E-1.025, and 12E-1.026, F.A.C.*)

Sales and Use Tax

- Repeals an unnecessary rule restating the statutory requirement to collect tax on each single sale (*Rule 12A-1.003, F.A.C.*)
- Removes unnecessary provisions regarding the taxability of tires repaired or altered by recapping (*Rule 12A-1.068, F.A.C.*)

Transient Rental Taxes

- Removes unnecessary rule chapters on the administration of locally-imposed transient rental tax governed by a sales and use tax rule on the same subject (*Chapters 12A-3, 12A-8, 12A-9, and 12A-10, F.A.C.*)

Severance Taxes

- Removes definitions that are no longer used for the tax on the production of oil, gas, or sulfur or on the severance of solid minerals, heavy minerals, or phosphate rock or are provided in statute (*Rules 12B-7.003 and 12B-7.022, F.A.C.*)

Administrative Rules

- Removes requirements for the indexing or listing of final orders that are redundant of other administrative rules (*Rules 12-2.021, 12-2.027, and 12-2.028, F.A.C.*)

- Removes the designation of the official reporter for final orders that is redundant of another administrative rule (*Rule 12-3.006, F.A.C.*)
- Removes provisions regarding contracts with debt collection agencies redundant of section 213.27, F.S. (*Rules 12-15.001 and 12-15.005, F.A.C.*)
- Removes provisions regarding the Money Laundering Act that are redundant of another administrative rule (*Rule 12-19.001, F.A.C.*)
- Removes an unnecessary rule that only refers to a statutory provision (*Rule 12-24.030, F.A.C.*)
- Removes unnecessary rules that recite statutory provisions (*Rules 12-22.001, 12-22.003, and 12-22.004, F.A.C.*)
- Removes provisions regarding taxpayers' representatives that are obsolete or redundant of other administrative rules (*Rule 12C-1.318, F.A.C.*)

Were comments received from external parties? No.

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

**DEPARTMENT OF REVENUE
RULE REPEALS - 2011 RULE REVIEW**

Program	Rule Number	Subject	Description of Proposed Rulemaking
Child Support Enforcement	12E-1.001	General	Repeal an unnecessary rule that is an overview of the Child Support Enforcement Program. The rule repeats provisions in several statutes and includes obsolete terminology.
Child Support Enforcement	12E-1.002	Services Provided	Repeal an unnecessary rule that is a description of the Program. The rule repeats statutes, is inconsistent with the Child Support Enforcement Title IV-D State plan in places, and contains obsolete terminology.
Child Support Enforcement	12E-1.003	Conditions of Eligibility	Repeal an unnecessary rule that describes who is eligible for child support enforcement services. The rule repeats statutes, is contrary to current law in some areas, incorporates obsolete forms, and uses obsolete terminology.
Child Support Enforcement	12E-1.004	Application for Services, Application Forms and Fee	Repeal an unnecessary rule about applying for child support enforcement services. The rule deviates from current law, incorporates obsolete forms, and contains obsolete terminology.
Child Support Enforcement	12E-1.005	Collection and Distribution of Payments	Repeal an unnecessary rule about the collection and distribution of support payments that contains obsolete information and references obsolete forms.
Child Support Enforcement	12E-1.009	Enforcement of Income Deduction in IV-D Cases Where No Income Deduction Order Currently Exists	Repeal an unnecessary rule about income deduction of child support payments that substantially repeats section 61.1301, F.S., and contains provisions that are out-of-date.
Child Support Enforcement	12E-1.013	Release of Information	Repeal an unnecessary rule concerning the release of information that substantially repeats section 409.2579, F.S.
Child Support Enforcement	12E-1.016	Child Support Guidelines	Repeal an unnecessary rule about child support guidelines that repeats section 61.30, F.S.
Child Support Enforcement	12E-1.017	Expedited Process	Repeal an unnecessary rule about expedited judicial processes that repeats statutory provisions, incorporates superseded federal regulations, cites as rulemaking authority a statute that has been repealed, and is no longer needed because expedited processes are provided by rule of the Florida Family Law Rules of Procedure (Rule 12.491).
Child Support Enforcement	12E-1.019	Judgments by Operation of Law	Repeal an unnecessary rule about judgments by operation of law that substantially repeats section 61.14, F.S., and cites as rulemaking authority a statute that has been repealed.
Child Support Enforcement	12E-1.020	Genetic Testing	Repeal an unnecessary rule about genetic testing for paternity establishment that repeats section 742.12, F.S., and contains obsolete information.
Child Support Enforcement	12E-1.024	Business or Professional License or Certification Suspension or Application Denial	Repeal a rule about suspending business and professional licenses and certifications that has been superseded by statutory changes.
Child Support Enforcement	12E-1.025	Procurement of Legal Services	Repeal the rule on procurement of legal services that unnecessarily restates federal law.
Child Support Enforcement	12E-1.026	Central Depository Electronic Transmission of Information	Repeal an unnecessary rule about the electronic transmission of data between court depositories and the Department. The rule includes obsolete provisions, repeats statutory provisions, and references a terminated contract between the Department, the Florida Association of Court Clerks, and the county court depositories for the design of a computer system.

**DEPARTMENT OF REVENUE
RULE REPEALS - 2011 RULE REVIEW**

Program	Rule Number	Subject	Description of Proposed Rulemaking
General Tax Administration	12A-1.003	Sales and Use Tax	Repeals an unnecessary rule restating the statutory requirement to collect tax on each single sale.
General Tax Administration	12A-1.068	Sales and Use Tax	Repeals unnecessary provisions regarding the taxability of tires repaired or altered by recapping.
General Tax Administration	12A-3.001 12A-3.002 12A-3.006 12A-8.001 12A-8.002 12A-9.001 12A-9.002 12A-10.001 12A-10.002	Transient Rental Taxes	Repeals unnecessary rules relating to the administration of locally-imposed transient rental taxes, which are governed by a sales and use tax rule on the same subject or are redundant of statutory provisions.
General Tax Administration	12B-7.003 12B-7.022	Severance Taxes	Repeals rules that set forth definitions that are no longer used for the tax on the production of oil, gas, or sulfur or on the severance of solid minerals, heavy minerals, or phosphate rock or are provided in statute.
General Tax Administration	12C-1.318	Administrative	Repeals an unnecessary rule regarding taxpayers' representatives which contains provisions that are obsolete or redundant of other administrative rules.
General Tax Administration	12-2.021 12-2.027 12-2.028	Administrative	Repeals requirements for the indexing or listing of final orders that are redundant of other administrative rules .
General Tax Administration	12-3.006	Administrative	Repeals the rule providing for the designation of the official reporter for final orders that is redundant of another administrative rule.
General Tax Administration	12-15.001 12-15.005	Administrative	Repeals rules that contain provisions regarding contracts with debt collection agencies that are redundant of section 213.27, F.S.
General Tax Administration	12-19.001	Administrative	Repeals a rule regarding the Money Laundering Act that contains provisions that are redundant of another administrative rule.
General Tax Administration	12-22.001 12-22.003 12-22.004	Administrative	Repeals unnecessary rules that recite statutory provisions.
General Tax Administration	12-24.030	Administrative	Repeals an unnecessary rule that only refers to statutory provisions.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE

CHILD SUPPORT ENFORCEMENT PROGRAM OFFICE

REPEALING RULES 12E-1.001, 12E-1.002, 12E-1.003, 12E-1.004,
12E-1.005, 12E-1.009, 12E-1.013, 12E-1.016, 12E-1.017, 12E-1.019,
12E-1.020, 12E-1.024, 12E-1.025, AND 12E-1.026

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12E-1.001, F.A.C. (General), removes provisions that recite statutory provisions and contain obsolete terminology.

The proposed repeal of Rule 12E-1.002, F.A.C. (Services Provided), removes provisions that recite statutory provisions, are not consistent with the Child Support Enforcement Title IV-D State plan, contain obsolete terminology, or are no longer necessary.

The proposed repeal of Rule 12E-1.003, F.A.C. (Conditions of Eligibility), removes provisions that recite statutory provisions, are not consistent with current law, incorporate obsolete forms, contain obsolete terminology, or are no longer necessary.

The proposed repeal of Rule 12E-1.004, F.A.C. (Application for Services, Application Forms and Fee), removes provisions that are not consistent with current law, incorporate obsolete forms, contain obsolete terminology, or are no longer necessary.

The proposed repeal of Rule 12E-1.005, F.A.C. (Collection and Distribution of Payments), eliminates obsolete provisions and references to obsolete forms.

The proposed repeal of Rule 12E-1.009, F.A.C. (Enforcement of Income Deduction in

IV-D Cases Where No Income Deduction Order Currently Exists), removes provisions that substantially recite section 61.1301, F.S., or that are outdated or unnecessary.

The proposed repeal of Rule 12E-1.013, F.A.C. (Release of Information), removes provisions that substantially recite section 409.2579, F.S., or are no longer needed.

The proposed repeal of Rule 12E-1.016, F.A.C. (Child Support Guidelines), removes provisions that cite section 61.30, F.S., or are no longer necessary.

The proposed repeal of Rule 12E-1.017, F.A.C. (Expedited Process), removes provisions that repeat statutory provisions, incorporate superseded federal regulations, or that are no longer necessary because expedited process is currently provided by rule of the Florida Family Law Rules of Procedure (Rule 12.491).

The proposed repeal of Rule 12E-1.019, F.A.C. (Judgments by Operation of Law), eliminates provisions that recite section 61.14, F.S., or that are no longer necessary.

The proposed repeal of Rule 12E-1.020, F.A.C. (Genetic Testing), removes provisions for genetic testing for paternity establishment provided in section 742.12, F.S., or provisions that are obsolete or are no longer necessary.

The proposed repeal of Rule 12E-1.024, F.A.C. (Business or Professional License or Certification Suspension or Application Denial), removes obsolete information that has been superseded by revisions to section 409.2598, F.S.

The proposed repeal of Rule 12E-1.025, F.A.C. (Procurement of Legal Services), removes provisions redundant of federal regulations and that are unnecessary.

The proposed repeal of Rule 12E-1.026, F.A.C. (Central Depository Electronic Transmission of Information), removes obsolete and unnecessary provisions that recite statutory provisions and reference a contract between the Department of Revenue, the Florida Association

of Court Clerks, and the county court depositories that has been terminated.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The Department identified the repeal of Rules 12E-1.001, 12E-1.002, 12E-1.003, 12E-1.004, 12E-1.005, 12E-1.009, 12E-1.013, 12E-1.016, 12E-1.017, 12E-1.019, 12E-1.020, 12E-1.024, 12E-1.025, and 12E-1.026, F.A.C., as noted in the comprehensive rule review conducted in 2011 as required by sections 120.74, F.S., and 120.745, F.S., and reported to the Office of Fiscal Accountability and Regulatory Reform. The proposed repeal of sections of Rule Chapter 12E-1, F.A.C. (Child Support Enforcement Program Office), is necessary to remove provisions that recite statutory provisions and provisions that are obsolete or are no longer necessary. The effect of these proposed rule repeals, when adopted, will eliminate obsolete and unnecessary rule sections from the Florida Administrative Code.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2913 - 2914), to advise the public of the proposed repeal of sections of Rule Chapter 12E-1, F.A.C. (Child Support Enforcement Program Office), and to provide that, if requested in writing, a rule development workshop would be held on

August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of sections of Rule Chapter 12E-1, F.A.C. (Child Support Enforcement Program Office). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 99 - 102), to advise the public of the proposed repeal of sections of Rule Chapter 12E-1, F.A.C. (Child Support Enforcement Program Office), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE

CHILD SUPPORT ENFORCEMENT PROGRAM OFFICE

REPEALING RULES 12E-1.001, 12E-1.002, 12E-1.003, 12E-1.004,
12E-1.005, 12E-1.009, 12E-1.013, 12E-1.016, 12E-1.017, 12E-1.019,
12E-1.020, 12E-1.024, 12E-1.025, AND 12E-1.026

12E-1.001 General.

~~(1) In compliance with state and federal laws, the Department of Revenue, Child Support Enforcement Program Office, is designated as the Title IV-D agency which administers the Florida Child Support Enforcement Program, under the provisions of Title IV-D of the Social Security Act. This program shall provide services to locate noncustodial parents, establish paternity if necessary, establish obligations of support, modify support obligations, collect and distribute support obligations and enforce obligations of support against noncustodial parents who fail to pay court ordered support. The program shall operate on behalf of the state in those cases where the child or family is receiving public assistance under Titles IV-A, IV-E or Title XIX, of the Social Security Act, and recovery is authorized under the provisions of Title IV-D of the Social Security Act. The program shall operate on behalf of the child's best interests for current support, arrears and medical support in non IV-E foster care and medicaid only cases. It shall operate in the best interest of the custodial parent or custodian where there are arrearages, when the custodial parent or custodian is not a recipient of public assistance but is receiving services pursuant to Section 409.2567, F.S. The program shall operate in the best interest of the~~

~~child to establish paternity, support and medical insurance, enforce or modify the support obligation and collect arrearages, when the custodial parent or custodian is not a recipient of public assistance but applies for and is receiving services pursuant to Section 409.2567, F.S. When a family is no longer eligible for AFDC, foster care, or medicaid services, the department shall continue to provide support enforcement services without requiring those former recipients to request continuation of services, file an application or pay an application fee. Paternity establishment services shall be made available to pregnant women in the third trimester of their pregnancy or thereafter.~~

~~(2) The program shall also cooperate with other states pursuant to the Uniform Reciprocal Enforcement of Support Act (URESA), Uniform Interstate Family Support Act (UIFSA) and with foreign jurisdictions which have issued a Declaration of Reciprocity with Florida by providing assistance in locating noncustodial parents, establishing paternity, establishing and enforcing support obligations, modifying support obligations, collecting support and disbursing support payments. Other interstate cooperative efforts include the use of the Florida long arm statute, interstate income deduction orders and registration of foreign orders for the limited purposes of enforcement or modification of the support provisions. The Child Support Enforcement Program Office is designated as the Uniform Reciprocal Enforcement of Support Act (URESA) information agency.~~

~~(3) A bond, security or other guaranty may be required by the court to secure payment of overdue support.~~

~~(4) The statute of limitations in paternity cases is four years which begins to run at the child's 18th birthday.~~

Rulemaking Specific Authority 61.181(8), 409.026, 409.2567 FS. Law Implemented 61.13,

61.181(8), 88.0405, 88.331, 95.11(3), 409.2554, 409.2557, 409.2561, 409.2567, 409.2569, 409.2577, 742.10 FS. History–New 1-11-76, Formerly 10C-25.01, Amended 2-18-86, 4-6-88, 8-1-89, 6-17-92, 7-20-94, Formerly 10C-25.001, Repealed _____.

12E-1.002 Services Provided.

~~(1) All services described in 45 Code of Federal Regulations, Parts 301 through 307, incorporated by reference herein with an effective date of June 1994, shall be provided. The services provided include location, establishment of paternity, establishment of support obligations, modification of support obligations, collection and distribution of support, and enforcement of support obligations. These regulations are published by the United States Government and are hereby incorporated by reference with an effective date of June 1994. Members of the public may obtain copies from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 or from the Child Support Enforcement Program Office, Department of Revenue, 1170 Capital Circle N.E., Tallahassee, FL 32301. Costs are charged in accordance with paragraph 119.07(1)(a), F.S.~~

~~(2) In accordance with 45 Code of Federal Regulations, Part 303.8(b), incorporated herein by reference with an effective date of June 1994, a modification review is mandatory at least once every three years in AFDC cases to determine if an increase or decrease of support is appropriate based on the Florida guidelines amount set forth in Section 61.30(6), F.S. In non-AFDC cases, at least one review within a three year period may be obtained by the noncustodial parent or custodial parent upon request. A noncustodial parent may apply for and shall receive a modification review and modification support services from the IV-D program. Each parent shall be given notice of the intent by the IV-D agency to conduct a review to determine if a~~

~~modification is appropriate at least 30 days prior to the commencement of the review. After the review has been completed, a second notice shall be sent to inform each parent of the decision to either seek or not to seek modification of the support order. Each parent shall be informed of their right to challenge the determination that a modification is or is not appropriate or of the modification within 30 days of receipt of the notice.~~

Rulemaking Specific Authority 409.026, 409.2557 FS. Law Implemented 61.14, 61.30, 119.08(3), 409.026, 409.2557, 409.2561, 409.2567 FS. History—New 1-11-76, Formerly 10C-25.02, Amended 2-18-86, 6-17-92, 7-20-94, Formerly 10C-25.002, Repealed _____.

12E-1.003 Conditions of Eligibility

~~(1) Public Assistance Recipient. By accepting public assistance on behalf of a child or children, the recipient assigns to the Florida Department of Revenue any and all right, title and interest to any arrearage, child support, or spousal support the recipient may be owed from any other persons on their behalf or on behalf of another family member for whom the recipient is receiving assistance. The amount of the assignment equals the amount of public assistance paid where no court order has been entered. Where there is an existing order of support, the assignment is limited to the amount of support due under the order. Medicaid applicants or recipients assign to the department any rights which they have to third party payments for medical services. However, the custodial parent in a medicaid only case does not assign any rights to arrearage, child support or spousal support. The assignment arises by operation of law. The state shall take action to locate the noncustodial parent, establish paternity where paternity is at issue, establish a court ordered support obligation, and collect, modify and enforce the court ordered support as reimbursement for past public assistance or current public assistance payment~~

~~being made for the benefit of the child or children. Application for support enforcement services by the public assistance recipient is not required.~~

~~(2) Non-Public Assistance Clients.~~

~~(a) All location, paternity determination, support establishment, collection and distribution, enforcement and modification services provided by the department shall be made available to all dependent children whether or not they are eligible for public assistance. Services shall be provided to any non-public assistance client upon the completion and filing of an Application and Contract for Non-AFDC Services, and Power of Attorney, and payment of the \$25.00 application fee. Applicants or recipients in medicaid or foster care cases are not required to pay the \$25.00 application fee.~~

~~(b) The administrative costs incurred by the department when providing location, paternity determination, support establishment, collection and distribution, enforcement and modification services on behalf of dependent children, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay costs and fees. The department shall not be considered a party for the assessment of costs. However, the department shall pay any fees assessed by the court pursuant to Section 57.105(1), F.S. The pleading filed by the department shall request the court to order the obligor to pay all administrative costs. The attorney shall take the necessary legal actions to recover administrative costs from the obligor when an obligor has failed to pay administrative costs pursuant to an order from a court of competent jurisdiction.~~

~~(c) "Administrative cost" means any costs, including attorney's fees, incurred by the IV-D agency in its efforts to administer the IV-D program. The administrative costs which must be collected by the department shall be standardized cost assessed on a case-by-case basis based~~

~~upon a written methodology to determine standardized costs which are as close to actual costs as possible. The administrative costs shall be adjusted periodically by the department. The methodology for determining administrative cost shall be made available to the judge or any party who requests it. Only those amounts ordered independent of current support, arrears, or the retroactive support obligation shall be considered and applied toward administrative costs.~~

~~(3) The non-Public Assistance Applicant for Child Support Enforcement Services. The non-Public Assistance applicant must be one of the following:~~

~~(a) Any custodial parent entitled to, but not receiving the court ordered amount of support;~~

~~(b) Any parent of a child or children born out of wedlock who may be entitled to support from the noncustodial or the alleged noncustodial parent of the child or children;~~

~~(c) Any custodial parent of a child or children born in wedlock who may be entitled to support from the noncustodial or the alleged noncustodial parent; or~~

~~(d) Any custodian with legal or actual custody, guardian ad litem or a state agency acting as a legal custodian of a child or children who has a support obligation owed by the parent or parents of said child or children.~~

~~(e) Any noncustodial parent who has reason to believe that he is the father of a child may apply for Title IV-D services if the custodial parent denies that he is the father of the child or otherwise fails or refuses to initiate an action to establish paternity.~~

~~(f) Any noncustodial parent who requests a review and modification of an existing support order. The department shall provide procedures to assist noncustodial parents in obtaining a modification if the application of the support guidelines provides the basis for proving a substantial change in circumstances. Before there can be a finding that the application~~

~~of the guidelines amount constitutes a substantial change in circumstances, the difference between the amount in the existing order and the amount provided for under the guidelines shall cause an increase or decrease of at least 15 percent or \$50.00 whichever amount is greater.~~

~~(4) Completion of the Application and Contract for Non-AFDC Child Support Enforcement Services.~~

~~(a) Each applicant for non-public assistance services shall complete and file the Application and Contract for Non-AFDC Child Support Enforcement Services, HRS Form H05, and the Power of Attorney, HRS Form H06, incorporated herein by reference with an effective date of October 1991.~~

~~(b) Absent Parent Locator Services. Any court, state agency, law enforcement agency, custodial parent, legal guardian, attorney, or agent of a child may apply for and shall receive parent locator services from the child support enforcement program of the department if the purpose for which the location information is requested is to aid in establishing paternity or a support obligation, or modifying, collecting or enforcing an obligation of court ordered support. Each applicant for Absent Parent Locator Service shall complete and file the Application and Contract for Non-AFDC Child Support Enforcement Services, HRS Form H05, incorporated herein by reference with an effective date of August 1992, and pay the \$25.00 application fee. Rulemaking Specific Authority 409.026, 409.2567 FS. Law Implemented 409.2554, 409.2557, 409.2561, 409.2567, 409.2569, 409.2577, 742.011 FS. History—New 1-11-76, Formerly 10C-25.03, Amended 2-18-86, 4-6-88, 8-1-89, 7-20-94, Formerly 10C-25.003, Repealed_____.~~

12E-1.004 Application for Services, Application Forms and Fee.

~~(1) Public Assistance Recipients. Application for support enforcement services by the~~

~~public assistance recipient is not required. The child support enforcement staff shall initiate the necessary location, paternity establishment, support obligation establishment, collection and distribution, enforcement or modification action upon receipt of a referral from the public assistance staff. After receiving the referral, the child support enforcement case analyst shall open a case file, and take action to determine the identity of the father, and establish a support obligation for each child who is a recipient of public assistance.~~

~~(2) Non-recipients of Public Assistance.~~

~~(a) Location Only Services:~~

~~1. The applicant must provide the child support office with information for each noncustodial parent whom the applicant seeks to locate for support enforcement purposes.~~

~~2. The applicant must provide to the department the necessary documentation to support the claim of support due from the noncustodial or the alleged noncustodial parent. Such documentation shall include: marriage certificates, birth certificates, court orders, correspondence from the noncustodial parent, a signed statement or correspondence from the alleged noncustodial parent.~~

~~3. A court, state agency, law enforcement agency, custodial parent, or the legal guardian, attorney, or other agent of a child may file an application for location only information services. The applicant must certify that the location information is sought solely for the purpose of establishing paternity, establishing a support obligation, or modifying, collecting or enforcing a court ordered obligation of support.~~

~~4. The applicant for location only information services must pay a \$25.00 fee. The \$25.00 fee must be paid when the application, HRS Form II05, for location only services is completed and filed. The \$25.00 fee will be used to offset the costs to the federal government and the~~

department for providing the location only services. The fee must be paid to the department by money order, cashier's check, or certified check.

~~(b) Location and Parental Kidnapping.~~

~~1. Authorized state and federal officials and agents may make an application to the state IV-D agency seeking the assistance of the IV-D agency in the submission of a request for location information from the federal parent locator service. The application for Federal Parent Locator Service under this provision shall be available only in parental kidnapping cases.~~

~~2. How to Apply for Federal Parent Locator Services in Parental Kidnapping Cases.~~

~~a. The requesting parent must visit a local law enforcement agency to complete the application and pay the \$25.00 application fee to the local law enforcement agency.~~

~~b. The local law enforcement agency shall remit the \$25.00 application fee, received from the requesting parent, to the IV-D agency when the local law enforcement agency submits the request to the IV-D agency.~~

~~c. The cost specified in subsubparagraph b. above shall be paid to the department by money order, cashier's check, or certified check.~~

~~(c) Paternity Determination, Establishment of an Obligation of Support, Collection, Modification, and Support Enforcement Services:~~

~~1. Any non-public assistance applicant, may obtain paternity determination, establishment of an obligation of support, modification, collection and support enforcement services from the Child Support Enforcement Program Office of the department upon completing and filing the Application and Contract for Non-AFDC Child Support Enforcement, HRS Form H05 and the Power of Attorney, HRS Form H06.~~

~~2. The applicant who is not a public assistance recipient or a former public assistance~~

~~recipient without a break in service shall pay a \$25.00 application fee and shall complete the following forms incorporated herein by reference with an effective date as of the effective date of each form: the Absent Parent Case Information, HRS Form II98; the Power of Attorney, HRS Form II06; Application and Contract for Non-AFDC Services, HRS Form II05. The department shall deposit the \$25.00 application fee in the Child Support Enforcement Annual User Fee Trust Fund, to be used for the Child Support Enforcement Program.~~

~~3. A separate application must be completed for each noncustodial parent from whom support is sought, however, only one \$25.00 application fee shall be collected from each non-AFDC applicant. Thus, a non-AFDC applicant with two different noncustodial parents (NCP) shall complete a separate application for each NCP, but shall be required to pay only one \$25.00 application fee.~~

~~4. Any putative father, or any noncustodial parent may apply for and shall receive paternity determination and modification services from the Child Support Enforcement Program Office of the department upon completing and filing the Application and Contract for Non-AFDC Child Support Enforcement services, HRS Form II05 and the Power of Attorney, HRS Form II06 and paying the \$25.00 application fee. When paternity establishment or modification services are applied for by the putative father or noncustodial parent, they shall be informed that the department must provide the full range of support enforcement services including enforcement. Application for support enforcement services may result in the implementation of an income deduction order by the court if an obligation of support is established. The noncustodial parent applicant shall be informed that, if he fails to make the court ordered support payment, the court has the discretion to find him in contempt of court with the possibility of incarceration for willful failure to pay court ordered support. If the custodial parent does not~~

apply for support enforcement services, as a non-AFDC client, after paternity has been established for the putative father, he may cancel his non-AFDC contract and the case shall be closed.

~~(d) Cost for services provided:~~

~~1. Each applicant for services under the Title IV-D program shall be required to pay the \$25.00 application fee since the fee shall no longer be paid by the state. In location only cases, the cost to the requestor will be \$25.00. Costs incurred by the department in providing paternity determination and modification services to the putative father or the noncustodial parent shall be recovered in accordance with the procedures set out below. The department shall direct the attorney to bring a civil action to enforce payment of cost incurred in providing support enforcement services.~~

~~2. Administrative Costs. Except as provided in statute, administrative costs incurred by the department shall be established and recovered in accordance with federal law. Actions initiated prior to February 15, 1988, but completed after this date are charged on either the actual cost incurred or the functional fee, whichever is lower. All child support enforcement activities initiated after February 15, 1988, are to be assessed at the appropriate standardized functional fee rates. The attorney shall take the necessary legal actions to recover administrative costs. No costs shall be charged in AFDC cases opened prior to March 27, 1989, which is the beginning date for cost recovery in public assistance cases. For multiple child support enforcement actions, administrative costs are assessed for each completed function.~~

~~a. Direct Cost. Direct costs which are assessed, in addition to the functional fee, include, service of process, clerk of court filing fee for non public assistance cases, discovery costs and genetic testing costs associated with the establishment of paternity.~~

~~b. Functional Fee. Functional fees are costs assigned to specific categories of support activities needed to complete child support actions. These fees have been approved by the federal government as a standardized amount which the department must charge and ask the court to require the noncustodial parent to pay for the services provided in the support enforcement process.~~

~~e. Functional fees are subject to yearly review and may be changed by the Child Support Enforcement Program Office after review and approval by the U.S. Department of Health and Human Services.~~

~~3. Interstate Cases. Administrative costs are to be assessed and recovery pursued in interstate initiating and responding cases. Pleadings in both initiating and responding cases must request payment of all administrative costs.~~

~~(e) How to Request Support Services: Any individual may make a request by phone, mail or personal visit and obtain necessary departmental forms and an appointment for an interview.~~

~~(f) Where to Apply for Support Services: Applications for non-public assistance parent locator services, paternity establishment, support obligation establishment, collection, modification and support enforcement services will be accepted in child support enforcement offices located throughout the state. The Department of Revenue in the county where the applicant resides may be contacted for information on the location of the office providing services to the applicant's area of residence. In cases where a person desiring services is unable to contact a local office, information may be obtained by writing to:~~

~~Child Support Enforcement Program~~

~~Department of Revenue~~

~~1170 Capital Circle, N. E.~~

Tallahassee, Florida 32301

~~(3) Continuation of Child Support Enforcement (CSE) Services. Former AFDC, foster care and medicaid recipients whose benefits have been terminated and there has not been a break in the receipt of CSE services are not required to request continuation of services, pay an application fee or complete an Application and Contract for non AFDC CSE Services from HRS, Form H05 Power of Attorney, nor HRS Form H06 respectively. Support services to these clients are to be provided in the same manner as services provided to non public assistance clients in paragraph 12E 1.004(2)(c), F.A.C., incorporated herein by reference with an effective date of June 1994. A request for case closure, however, does not prevent nor preclude action by the department to recover benefits paid based on an assignment of rights as defined in Section 409.2561, F.S.~~

~~(4) Child Support Enforcement Forms. All applicants and recipients of child support enforcement services shall be requested to provide information to be recorded on the department's Child Support Enforcement Forms or the FLORIDA system, or to complete and sign departmental Child Support Enforcement Forms. Those eligible for medical assistance can choose full IV-D services or medical support only. The following forms used in the implementation of this rule are hereby incorporated by reference as of the effective date stated on each form in this rule and include, the following:~~

DOR FORMS NO.	TITLE	EFFECTIVE DATE
(1) Form FSA 201	Uniform Support Petition	7/94
(2) Form FSA 202	General Testimony for URESA	7/94
(3) Form FSA 204	Paternity Affidavit	7/94

(4) CS PO02	Client Authorization (r. 4/91)	4/91
(5) CS PO11	Affidavit of Child Support Arrears (r. 4/91)	4/91
(6) CS PO30	Financial Affidavit (Short Form) (r. 4/91)	4/91
(7) CS POZ5	Conflict of Interest Waiver for Modification (r. 4/92)	8/96
(8) CS II04	Affidavit to Redirect Payment Through the Depository (r. 10/91)	10/91
(9) CS II05	Application and Contract for Non-AFDC Child Support Enforcement Services (r. 4/96)	8/96
(10) CS II06	Power of Attorney (r. 4/96)	8/96
(11) CS II94	Paternity Questionnaire (r. 5/96)	8/96
(12) CS II95	Absent Parent Assets Information (r. 6/91)	6/91
(13) CS II96	Financial Information (r. 6/91)	6/91
(14) CS II97	Employment Information (r. 6/91)	6/91
(15) CS II98	Absent Parent Case Information (r. 6/91)	6/91
(16) CS II99	Custodial Parent Information (r. 8/92)	8/96
(17) CS EF32	Notice of Consumer Reporting Agency Request for Information (r. 4/91)	4/91
(18) CS EF50	Notice of Intent to Suspend Business or Professional License or Certification or to Deny Application (r. 12/93)	12/93
(19) CS EF45	Notice of Intent to Suspend Driver's License/Privilege and Vehicle Registration(s) (r. 12/93)	12/93

~~These forms are all published by the department. Members of the public may obtain copies by contacting the Child Support Enforcement Program Office at the address listed in paragraph 12E-1.004(2)(f), F.A.C., of this rule after paying the costs of copying, which are charged in accordance with paragraph 119.07(1)(a), F.S. The effective date of each new or amended form is the same as the effective date of the form.~~

~~(5) Completion and the use of forms in Title IV-D cases.~~

~~(a) When any custodial parent living in Florida seeks the assistance of the Florida IV-D agency in establishing paternity or support, enforcing or modifying a support obligation against a noncustodial parent living in another state, they shall provide the information needed to complete Form FSA 201, the Uniform Support Petition. This is a motion which must be verified and contain the names of and addresses of both the petitioner and respondent. The motion shall state the circumstances of the respondent and petitioner which caused the filing of the motion for support. The petitioner shall include as an attachment any information which may help in locating or identifying the respondent. This shall include a photograph of the respondent if available, a description of distinguishing marks on his/her person, other names and aliases by which the respondent has been or is known. If known, the petitioner shall provide the social security number, name of employer, and fingerprints of the respondent. Most of the foregoing information shall be provided on Form FSA 202, General Testimony for URESA.~~

~~(b) When paternity is at issue in a URESA proceeding, the petitioner shall complete Form FSA 204, Paternity Affidavit, to provide the proof required to enable the court, in the state where the respondent resides, to be able to proceed to establish paternity without requiring the presence of both parties. Otherwise, the court may adjourn the hearing until the paternity issue has been~~

adjudicated.

~~(c) When paternity is at issue in any IV-D case and a genetic test is required to help resolve the dispute, the petitioner and respondent shall cooperate with the laboratory technician in the completion of Form PO02, Client Authorization. This form establishes the identity of the individuals whose blood is drawn to perform the genetic test. The form contains the information which documents the chain of custody of the genetic samples.~~

~~(d) When any individual seeks the assistance of the IV-D agency to enforce a support order or judgment, they shall complete Form PO11, Affidavit of Child Support Arrears. The petitioner must state under oath that the respondent has failed to provide the court ordered support on behalf of the identified children. The petitioner must state the amount of arrears which has accrued as a result of the failure by the respondent to pay the court ordered support as payments become due and remain unpaid. This affidavit helps the IV-D agency identify court orders, courts and depositories involved in the establishment, modification and enforcement of the support presented for IV-D enforcement activity. With the information on the Affidavit of Child Support Arrears, the IV-D agency can conduct the requisite investigation to enable it to determine if the petitioner has a case with a justiciable issue sufficient to proceed against the respondent. This determination is important because the court is authorized to assess fees and costs against the department pursuant to Section 57.105(1), F.S., when it is shown that the IV-D agency proceeded when it knew that there was no justiciable issue.~~

~~(e) Every petitioner and respondent in a IV-D case shall complete Form PO30, Financial Affidavit which shall include the income, allowable deductions and the net income of the party computed in accordance with Section 61.30(14), F.S.~~

~~1. The financial affidavit of the petitioner shall be attached to the petition for support or~~

modification.

~~2. The financial affidavit of the respondent shall be filed with his answer to the petition or as soon thereafter, but in any case no later than 72 hours prior to any hearing on the finances of either party.~~

~~3. In public assistance cases where there has been a finding that the custodial parent is noncooperative, the IV-D agency shall submit an affidavit attesting to the income of the custodial parent based upon information available to it.~~

~~(f) Any IV-D applicant shall complete and sign Form POA9, Conflict of Interest Waiver. The conflict of interest waiver allows the attorney under contract with the IV-D agency to disclose to the IV-D agency communications made to the attorney by the recipient of IV-D services. The communications shall not be disclosed by the attorney to anyone other than the IV-D agency except as provided in Section 90.502, F.S.~~

~~(g) Except in IV-D cases, the court may enter an order stating that support payments shall not be made through the depository where both parties agree that child support payments not be made through the depository. The order shall provide or be deemed to provide that either party may subsequently apply to the court to require support payments be made through the depository. A copy of the order shall be provided to the depository by the requesting party.~~

~~1. When a default occurs either party may file an affidavit alleging default or arrearages and request participation in the depository program. The party seeking participation in the depository program shall provide copies of the affidavit to the court and the other party. Fifteen days after receipt of the affidavit, the depository shall notify all parties that future payments shall be paid through the depository.~~

~~2. In IV-D cases the party seeking a redirection of payments shall complete Form H04,~~

~~Affidavit to Redirect Payment Through the Depository.~~

~~3. The support order in every IV-D case shall require that the support payments be made periodically to the department through the depository. When the IV-D agency is no longer authorized to receive payments for the obligee, the IV-D agency shall notify the depository to redirect support payments to the obligee.~~

~~(h) The custodial parent in a IV-D case shall complete Form H94, Paternity Questionnaire. The information on the Paternity Questionnaire shall be used to enable the IV-D agency to complete an investigation sufficient to determine that a petition to determine paternity will be factually accurate, is brought in good faith, and is likely to be supported by reliable evidence. This will prevent the IV-D agency from being subject to the assessment of fees and costs under Section 57.105(1), F.S.~~

~~(i) The director of the IV-D program has the authority to cause a lien to be placed upon the title of motor vehicles and vessels as defined under Chapters 320.01 and 327.02(27), F.S., respectively, for unpaid and delinquent child support. Liens shall be placed only on the titles of vehicles and vessels registered in the name of the delinquent obligor as provided for under Sections 319.23 and 328.01, F.S. If the first lienholder fails, neglects, or refuses to forward the certificate of title to the appropriate department as requested pursuant to Section 319.24 or 328.15, F.S., the director of the IV-D program shall apply to the circuit court for an order to enforce the requirements pursuant to Section 319.24 or 328.15., F.S. Any noncustodial parent with title to a motor vehicle or vessel in their name shall be required to complete Form H95, Absent Parent Asset Information.~~

~~(j) Whenever the IV-D agency initiates an action for support, it shall attempt to enter into an agreement with the noncustodial parent for the entry of a judgment of paternity and support~~

~~based upon the financial ability of the noncustodial parent to pay.~~

~~1. The noncustodial parent must be informed that a judgment will be entered based upon the agreement.~~

~~2. The clerk of court shall file the agreement without requiring the payment of any fees or charges. A copy of the judgment shall be provided to all parties after it has been entered by the court.~~

~~3. The guidelines under Section 61.30 shall be used to establish the child support award amount. The noncustodial parent shall complete Form H96, Financial Information to enable the IV-D agency to gather the financial data it needs to fully discharge its responsibilities under the law.~~

~~(k) The IV-D agency shall establish a parent locator service to request and receive from the records of any person or the state or any of its political subdivisions or any officer thereof, location and employment information. The information to be provided includes any information relating to location, salary, insurance, social security, income tax, and employment history. Any employer shall complete Form H97, Employment Information, upon receipt of a request from the IV-D agency to provide the information from its files.~~

Rulemaking Specific Authority s. 1, Chapter 94-124, s. 14, Chapter 94-236, L.O.F. Law

Implemented 61.08(4)(d), 61.16(1), 61.30(1)(b), (14), (15), 88.111, 88.151, 88.235, 90.502(5), 119.08(3), 319.23, 319.24, 320.01, 327.02(27), 328.01, 328.15, 409.2557, 409.2561, 409.2567, 409.2564(2), (3), (4), 409.2569, 409.2572, 409.2577, 695.25, 742.045, 742.12 FS. History—New 2-18-86, Amended 4-9-87, 4-6-88, 8-1-89, 6-17-92, 7-20-94, Formerly 10C-25.0035, Amended 8-19-96, Repealed_____.

12E-1.005 Collection and Distribution of Payments.

~~(1) Public Assistance Recipients. Collection and distribution of child support payments in public assistance cases will be administered in accordance with 45 Code of Federal Regulations, Part 302.51, incorporated herein by reference under subsection 12E-1.002(1), F.A.C., with an effective date of June 1994. Members of the public may obtain copies from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.~~

~~(2) Distribution of Support to Recipients when Public Assistance Benefits are Terminated:~~

~~(a) The department shall continue to provide services after the public assistance recipient ceases to receive public assistance benefits unless the client specifically instructs the department to cease providing services. Collection and distribution of child support payments in former AFDC cases will be administered in accordance with 45 Code of Federal Regulations, Part 302.51, herein incorporated by reference under subsection 12E-1.002(1), F.A.C., with an effective date of June 1994.~~

~~(b) In accordance with 45 Code of Federal Regulations, Part 302.33(a)(4), herein incorporated by reference under subsection 12E-1.002(1), F.A.C., with an effective date of June 1994, when the IV-D agency receives notice that a family is no longer eligible for assistance under AFDC, IV-E foster care, or Medicaid, the IV-D agency must notify the family within five working days of receipt of notice that IV-D services will be continued unless the IV-D agency is directed to discontinue service to the family. The notice must inform the family of the consequences of continuing to receive IV-D services, including available services, fees, cost recovery and distribution policies. If the former AFDC recipient requests termination of the IV-D services and there is no arrearage or public assistance obligation, the depository shall be~~

~~instructed to redirect payments to the custodial parent. When the former AFDC recipient requests termination of the IV-D services and there is an arrearage or public assistance obligation, the depository shall be instructed to split the payment and forward the arrearage or public assistance obligation to the department and current support to the custodial parent.~~

~~(c)1. The level, quantity and quality of IV-D services provided in a case shall not be affected by the transition from public assistance to non-public assistance.~~

~~2. Other provisions of this section notwithstanding, the notices provided in paragraph (b) shall not be given if the former AFDC recipient has previously requested that IV-D services be terminated.~~

~~(3) Non-Public Assistance Clients. All support and paternity determination, location, collection and distribution, enforcement and modification services provided by the department shall be made available to all dependent children whether or not they are eligible for public assistance. Any putative father, or any noncustodial parent, may apply for and shall receive paternity determination or modification services from the Child Support Enforcement Program Office of the department upon completing and filing the Application and Contract for Non-AFDC Child Support Enforcement Services. Services shall be provided to non-AFDC clients upon the completion and filing of a Power of Attorney, Application and Contract for Non-AFDC Services. The application fee for non-AFDC services shall be paid by the department.~~

~~(a) The administrative costs incurred by the department, including the application fee paid by the department, when providing support and paternity determination services on behalf of all dependent children, shall be recovered only from the obligor. The pleading filed by the department shall request the court to order the obligor to pay all administrative costs. The contract attorney shall take the necessary legal actions to recover administrative costs from the~~

~~obligor when an obligor has failed to pay administrative costs pursuant to an order from a court of competent jurisdiction.~~

~~(b) “Administrative costs” means any costs, including attorney’s fees, incurred by the IV-D agency in its effort to administer the IV-D program. The administrative costs which must be collected by the department shall be assessed on a case by case basis based upon a method for determining costs approved by the federal government. The administrative costs shall be adjusted periodically by the department. The methodology for determining administrative cost shall be made available to the judge or any party who requests it. Only those amounts ordered independent of current support, arrears, or past public assistance obligation shall be considered and applied toward administrative costs.~~

Rulemaking Specific Authority 409.026, 409.2567 FS. Law Implemented 409.2554, 409.2557, 409.2561, 409.2567, 409.2569 FS. History–New 2-18-86, Amended 4-6-88, 8-1-89, 7-20-94, Formerly 10C-25.0036, Repealed _____.

12E-1.009 Enforcement of Income Deduction in IV-D Cases Where No Income Deduction Order Currently Exists.

~~(1) The Child Support Enforcement Program shall enforce income deduction under the provisions of this rule in all cases in which a support order is being enforced under Title IV-D of the Social Security Act and the order does not specify income deduction. As used in the remainder of this section, the word “case” refers only to such cases.~~

~~(2)(a) When existing case prioritization procedures call for any other action to be taken in a case, the case shall be reviewed for implementation of income deduction.~~

~~(b) Income Deduction shall be implemented in a case where the obligor has a~~

~~delinquency totaling 30 days' worth of unpaid support payments and there is no provision in the court order for income deduction when a delinquency arises and no Immediate Income Deduction Order has been entered. The income deduction shall be implemented immediately in existing cases where the obligor is already delinquent as of October 1, 1986.~~

~~(c) Otherwise the cases in each prioritized category shall be processed in the order in which they are normally processed in the prioritization scheme.~~

~~(3)(a) The Office of Child Support Enforcement shall initiate the income deduction process by having the Sheriff serve the obligor with a Notice of Intent to Initiate Income Deduction, which shall notify the obligor that the Office of Child Support Enforcement intends to enforce the support obligation by income deduction. The Notice of Intent to Initiate Income Deduction shall advise obligors of their rights, remedies and responsibilities relating to income deduction, the procedures to be followed, and the amount of the delinquency as of the date the Notice is delivered to the Sheriff for service. Along with the Notice of Intent to Initiate Income Deduction, the Office of Child Support Enforcement shall serve on the obligor a copy of the Notice of Requirement to Initiate Income Deduction. This is the document that the Office of Child Support Enforcement intends to serve on the obligor's employer or other payor, directing the payor to make deductions from the obligor's income. The specific contents of these Notices are given in subsection (5) below.~~

~~(b) Obligors shall have 15 days from the date they are served by the Sheriff to request a hearing, pursuant to subsection (4) below, to contest income deduction. Upon the conclusion of any such hearing and entry of a final order, if income deduction is determined to be proper, on or after the 15th day after service, if no hearing is requested, the Office of Child Support Enforcement or its agent shall serve the Notice of Requirement to Initiate Income Deduction on~~

~~the obligor's payor.~~

~~(4) Hearings.~~

~~(a) An obligor served as provided in this rule may stay the effectiveness of income deduction by applying to the court that has jurisdiction of the case for a hearing to contest income deduction. Such application must be filed and notice must be furnished to the Office of Child Support Enforcement at the address given in the Notice of Intent to Initiate Income Deduction within 15 days of the date the obligor was served.~~

~~(b) Income Deduction may be contested only on the ground of a mistake of fact as to the amount of support owed pursuant to a court order, the amount of the arrearages, or the identity of the obligor.~~

~~(c) If the court determines that enforcement of income deduction is proper, the Office of Child Support Enforcement shall proceed to serve the Notice of Requirement to Initiate Income Deduction on the obligor's payor, subject to any instructions contained in the court's order.~~

~~(5) Notices to Be Served.~~

~~(a) Notice of Intent to Initiate Income Deduction. This Notice shall be served pursuant to the provisions of Chapter 48, F.S., on the obligor in every income deduction case implemented under this section of the rule. It shall notify the obligor:~~

~~1. That the Office of Child Support Enforcement intends to enforce the support obligation by income deduction in the case by serving on the employer or other payor a Notice of Requirement to Initiate Income Deduction requiring the obligor's payor to make regular deductions from the obligor's income to meet the obligor's support obligation and arrearage;~~

~~2. That such notice will be served on the obligor's payor on or after 15 days after the date the obligor was served unless before that time the obligor applies to the court for a hearing to~~

~~contest income deduction and submits to the Office of Child Support Enforcement or its agent either a copy of the application filed with the court or written notice that such an application has been filed;~~

~~3. That income deduction may be contested only on the ground of mistake of fact as to the amount of support owed pursuant to a court order, the amount of the arrearage, or the identity of the obligor;~~

~~4. That the Notice of Intent to Initiate Income Deduction and Notice of Requirement to Initiate Income Deduction apply to current and subsequent payors and periods of employment;~~

~~5. That the obligor is required to notify the Office of Child Support Enforcement within 7 days of any change of address or any change in payors or their addresses;~~

~~6. Of all fees or interest that may be imposed;~~

~~7. Of the address of the Child Support Enforcement office or its agent to which all required notices are to be sent;~~

~~8. Of the amount of the delinquency as of the date the Notice of Intent to Initiate Income Deduction is delivered to the Sheriff for service.~~

~~(b) Notice of Requirement to Initiate Income Deduction. This notice shall be served on the obligor along with the Notice of Intent to Initiate Income Deduction. It shall be served on the obligor's payor on or after 15 days after the Notice of Intent to Initiate Income Deduction is served on the obligor if the obligor does not request a hearing, or upon the entry of an order determining income deduction to be proper pursuant to such a hearing. It shall notify the payor:~~

~~1. That he is required to make deductions as provided below from all income due and payable to the obligor and to forward the amounts so deducted to a depository as well as giving notice;~~

- a. ~~Of the legal basis for the requirement; and,~~
 - b. ~~Of the address of the depository.~~
2. ~~Of the terms of the support order and the amount he is to deduct to meet the obligor's ongoing support obligation;~~
 3. ~~Of the amount of the arrearage and the period during which it accrued, and the amount he is to deduct to be applied to the arrearage until it is paid in full, which amount shall be 20 percent of the amount he is required to deduct to meet the obligor's ongoing support obligation;~~
 4. ~~That in addition to the amounts specified above which he is required to deduct and forward to the depository, he may deduct and retain up to \$5 the first time deductions are made and up to \$2 for each subsequent time deductions are made to defray his administrative expenses;~~
 5. ~~Of the limitation imposed by the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b), incorporated herein by reference with an effective date of June 1994, on the total percentage of the obligor's net income that may be deducted;~~
 - a. ~~That he may not deduct more than such allowable percentage; and,~~
 - b. ~~That if the total of the deductions otherwise required or permitted exceeds such percentage limitation in 15 U.S.C. 1673(b) he is to reduce accordingly the amount to be deducted and forwarded to the depository.~~
 - c. ~~That if he receives two or more orders or notices requiring deductions from the income of the same obligor and the total amount to be deducted exceeds the allowable percentage in 15 U.S.C. 1673(b), he is to contact the court or the Office of Child Support Enforcement for further instructions, and until such instructions are received he is to continue to make the required deductions for the first notice or order received and to reduce the amount to be deducted and~~

~~forwarded to the depository for any subsequent notice or order received.~~

~~6. That he is required to begin making deductions no later than the first payment date that is more than 14 days after service on the payor;~~

~~7. That he is required to forward the amount deducted, less his administrative fee, to the depository within 2 days after each payment date and provide the specific date each deduction is made;~~

~~8. That he is required to send to the Office of Child Support Enforcement each time a deduction is made a statement as to whether the amount forwarded to the depository fully or only partially satisfies the periodic amount specified in paragraphs 2. and 3. above;~~

~~9. That the requirement to make deductions in accordance with the Notice of Requirement to Initiate Income Deduction has priority over all other legal processes under state law pertaining to the same income, and that deduction in accordance with such notice is a complete defense by the payor against any claims of the obligor or his creditors as to the amount deducted;~~

~~10. That if he receives notices or orders requiring that deductions be made from the income of two or more obligors and sent to the same depository, he may combine the amounts that are to be sent to the depository in a single payment as long as the payments attributable to each obligor are clearly identified;~~

~~11. That if he fails to deduct the proper amount he is liable for the difference between the amount he should have deducted and the amount actually deducted plus costs, interest and reasonable attorney's fees;~~

~~12. That the Notice of Requirement to Initiate Income Deduction and the Notice of Intent to Initiate Income Deduction are binding on the payor until further notice by the Office of Child~~

~~Support Enforcement or a court, or until he no longer provides income to the obligor;~~

~~13. That when he no longer provides income to the obligor, he is required to notify the Office of Child Support Enforcement of that fact and shall provide the obligor's last known address and the name and address of the obligor's new payor, if known, and that if the payor violates this requirement he shall be subject to a civil penalty of up to \$250 for the first violation and up to \$500 for subsequent violations;~~

~~14. That the payor shall not discharge, refuse to employ, or take disciplinary action of any kind against the obligor because of the enforcement of income deduction and that a violation of this section shall subject the payor to a civil penalty up to \$250 for the first violation and up to \$500 for subsequent violation, and shall entitle the obligor to bring a civil action for reinstatement and all wages and benefits lost plus reasonable attorney's fees and costs incurred; and,~~

~~15. Of the address of the Child Support Enforcement Office or its agent to which all required notices are to be sent.~~

Rulemaking Specific Authority 409.2574 FS. Law Implemented Ch. 48, 61.1301, 409.2557, 409.2574 FS. History—New 10-20-86, Amended 6-17-92, 7-20-94, Formerly 10C-25.007, Repealed _____.

12E-1.013 Release of Information.

~~(1) Information which identifies recipients and applicants contained in the files of the child support enforcement program can only be released for purposes directly connected with:~~

~~(a) The administration of the plan or program approved under Parts A, B, C, D or E of Title IV, and Titles II, X, XIV, XVI, XIX, and XX of the Social Security Act, or under the~~

~~supplemental security income program established under Title XVI of the Social Security Act;~~

~~(b) Any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the child support state plan or program by any governmental entity authorized by law to conduct such activity or audit; and,~~

~~(c) Any other federally assisted program which provides assistance, in cash or in kind, or services to individuals on the basis of need.~~

~~(2) Under 42 U.S.C. 602(a)(9), incorporated herein by reference as of June 1994, information may be released to a state or local law enforcement officer if the officer indicates the recipient's name and social security number, demonstrates that the recipient is a fugitive felon, and that the location or apprehension of the fugitive felon is within the official duties of the officer and that the request is made in the proper exercise of those duties.~~

~~(3) Information cannot be released that identifies by name or address any such applicant or recipient to any committee or legislative body (federal, state or local).~~

~~(4) Information may be released if the custodial parent, or their legal representative or their attorney requests the information in writing or in person; or if the person requesting the information has the written consent of the custodial parent or the custodial parent's legal representative or presents a court order.~~

~~(5) Pursuant to 45 CFR 303.21(4), as amended and incorporated herein by reference under subsection 12E-1.002(1), F.A.C., of this rule with an effective date of July 1994, the IV-D agency shall report to an appropriate agency or official information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 119.07, 409.2579 FS. History–
New 6-17-92, Amended 7-20-94, Formerly 10C-25.010, Repealed _____.

~~12E-1.016 Child Support Guidelines. The use of the state guidelines amount for recommending to the court the amount of support when establishing or modifying the support obligation in all cases is presumed to be the correct amount. The guidelines are set forth in Section 61.30, F.S., incorporated herein by reference with an effective date of June 1994. Where the court deviates from the state guideline amount, in excess of five percent plus or minus, it must indicate its reasons for such departure either in writing in the court order or on the record in open court.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 61.30 FS. History–New 6-17-92,
Amended 7-20-94, Formerly 10C-25.013, Repealed _____.

~~12E-1.017 Expedited Process. Pursuant to federal regulatory requirements, 45 CFR 303.101 incorporated herein by reference as of the effective date of this rule, Florida has developed an “expedited process,” which utilizes support enforcement hearing officers who are appointed by the chief judge of the circuit. The hearing officers are not judges. They take testimony, make a record of the hearing and submit a report and recommended order to the judge. The recommended order submitted to the judge by the support enforcement hearing officer may be adopted by the judge. Either party to the proceeding may petition the judge to vacate the recommended order submitted by the support enforcement hearing officer. Under the expedited process procedure, actions to establish, enforce or modify support obligations in IV-D cases must have an order entered within the following time frames: (i) in 90 percent of the cases~~

~~within three months from the date of service of process to the date of disposition; (ii) in 98 percent of the cases within six months from the date of service of process to the date of disposition; and (iii) in one hundred percent of the cases within twelve months from the date of service of process to the date of disposition. The provision for expedited process is provided by rule of the Florida Supreme Court, under Rule 1.491, Florida Rules of Civil Procedure, Support Enforcement Hearing Officer.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented Chapter 86-220, Section 127, L.O.F. History–New 6-17-92, Amended 7-20-94, Formerly 10C-25.014, Repealed_____.

12E-1.019 Judgments by Operation of Law. ~~When support payments are made through the local depository, any payment or installment of support which becomes due and is unpaid is delinquent and this unpaid payment or installment and all other costs and fees become a judgment by operation of law. This judgment by operation of law has the full force, effect and attributes of a judgment entered by a judge in this state for which execution may issue. When the obligors are 15 days delinquent in making a support payment, the depository shall serve notice on the obligors informing them of the delinquency and its amount, the impending judgment by operation of law and their right to contest the impending judgment and the grounds upon which such contest can be made. If the obligor fails to make the payment or respond by the end of the thirty day period, a judgment by operation of law shall come into existence. A certified copy of the support order and a certified copy of the delinquency statement issued by the local depository evidencing a delinquency constitutes evidence of a final judgment. Under Section 61.14(6)(a)3., F.S., the judgment may only be retroactively modified if there is a pending petition to modify and may only be retroactively modified to the date the pending petition to modify was filed. The~~

~~clerk of court shall record a certified copy of the support order and a certified copy of the delinquency statement in the records where judgments are recorded. Such recording creates a lien of the real and personal property of the noncustodial parent.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 61.14(6)(a), (6)(a)3. FS. History--New 6-17-92, Amended 7-20-94, Formerly 10C-25.016, Repealed_____.

12E-1.020 Genetic Testing.

~~(1) In any paternity action, the court may order a genetic test on its own motion. The court is required to order a genetic test if either party to the action requests a genetic test. If either party disputes the results of the first genetic test, the court shall order a second test at an independent laboratory chosen by the party requesting the second test. The party requesting the second genetic test shall be responsible for paying the cost of the test. The department shall seek recovery of genetic testing costs from the alleged father in all cases where genetic tests are performed. The alleged father who pays the cost of a genetic test up front and is subsequently excluded as the possible father is entitled to request a refund of the cost from the court or from the department.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 409.2554, 409.2567, 742.12 FS. History--New 6-17-92, Amended 7-20-94, Formerly 10C-25.017, Repealed_____.

12E-1.024 Business or Professional License or Certification Suspension or Application Denial.

~~(1) The Request to Suspend. After the IV-D agency has exhausted all other available support enforcement remedies in a case where there is a delinquency, it shall petition the court~~

~~which entered the order or is enforcing the order to deny or suspend a license or certificate of the noncustodial parent issued pursuant to Chapters 231, 409, 455 and 599, F.S. This is an additional enforcement remedy to ensure that children are supported from the resources of their parents and to lessen the tax burden on the general citizenry. The court may find that it is inappropriate to deny or suspend a license or certificate if:~~

~~(a) The denial or suspension would result in irreparable harm to the obligor or employees of the obligor or would not accomplish the objective of collecting the delinquent support amount.~~

~~(b) The obligor demonstrates that he has made a good faith effort to reach an agreement with the IV-D agency.~~

~~(c) The court determines that an alternative remedy is available to the obligee which is likely to accomplish the objective of collecting the delinquent support amount.~~

~~(2) Criteria for Requesting Denial or Suspension of a Business or Professional License or Certificate:~~

~~(a) There is a valid child support order.~~

~~(b) A child support delinquency exists as defined in Section 61.14, F.S.~~

~~(c) The noncustodial parent possesses a valid professional or business license or certification or has applied for a license or certification.~~

~~(d) All other appropriate enforcement remedies have been exhausted.~~

~~(e) A delinquent support amount does not include any amount for fees, costs or other administrative costs.~~

~~(3) State Agencies authorized to Suspend or Deny Licenses and Certifications:~~

~~(a) Professional Regulations:~~

~~1. Division of Medical Quality Assurance and Professionals;~~

~~2. Division of Accountancy; and,~~

~~3. Division of Real Estate.~~

~~(b) Business Regulation:~~

~~1. Division of Alcoholic Beverages and Tobacco;~~

~~2. Division of Land Sales and Condominiums;~~

~~3. Division of Hotels and Restaurants;~~

~~4. Division of Para Mutual Wagering; and,~~

~~5. Athletic Commission.~~

~~(4) Notice of Intent to Suspend a Professional or Business License or Certification or Deny an Application.~~

~~(a) After the case analyst determines that the case meets the criteria for license or certification suspension or application denial, the noncustodial parent shall be given notice of the intent of the department to suspend the license or certificate or deny the application. Notice shall be provided by delivery of the Notice of Intent to Suspend/Deny License or Certificate, HRS Form EF50, incorporated herein by reference as of the effective date of this rule, to the noncustodial parent at the last known address of record by certified mail return receipt requested. If there is no address of record available or if the address of record is incorrect, notification shall be by publication pursuant to Chapter 49, F.S.~~

~~(b) The notice must inform the delinquent noncustodial parent of the following:~~

~~1. That this is the first Notice of Intent to Suspend/Deny License or Certificate;~~

~~2. That the delinquent noncustodial parent has 30 days from the date of completed service to pay the delinquency in full; and,~~

~~3. That the delinquent noncustodial parent has 30 days from the date of completed service~~

~~to agree to a repayment schedule with the department.~~

~~4. That failure to pay the delinquency in full or agree to begin repayment within 30 days from the date of receipt of the first Notice of Intent to Suspend/Deny License or Certificate shall cause a second Notice of Intent to Suspend/Deny License or Certificate to be sent.~~

~~5. That failure to pay the delinquency in full or agree to begin repayment within 30 days from the date of receipt of the second Notice of Intent to Suspend/Deny License or Certificate shall cause the department to file a Petition to Suspend or Deny Application for Business or Professional License or Certification.~~

~~(5) Court Hearing to Suspend/Deny License or Certificate.~~

~~(a) During the hearing to Suspend/Deny License or Certificate, the trier of fact shall issue findings upon the following factors:~~

~~1. Has the department exhausted all available enforcement remedies?~~

~~2. Would denial or suspension of the license or certificate result in irreparable harm to the noncustodial parent or other persons dependent upon the license or certificate of the noncustodial parent?~~

~~3. Would denial or suspension of the license or certificate accomplish the objective of collecting the delinquency?~~

~~4. Has the department and the noncustodial parent demonstrated good faith effort to reach a repayment agreement?~~

~~5. Is there an alternative remedy available that would accomplish the same objective?~~

~~(b) After the conclusion of the hearing to deny or suspend the license or certificate, the court shall enter an order granting or denying the petition to deny or suspend the license or certificate. If the court enters an order suspending the license or certificate, the noncustodial~~

~~parent shall be required to surrender the license or certificate to the department.~~

~~(c) Upon receipt of the surrendered license or certificate by the IV-D agency from the noncustodial parent, the Title IV-D agency shall forward it to the department in Tallahassee which issued it to the noncustodial parent.~~

~~(d) Failure by the noncustodial parent to surrender the court-ordered suspended license or certificate to the IV-D agency shall not result in a delay in the IV-D agency notifying the agency which issued the license or certificate to suspend the license pursuant to the court order. The issuing agency shall proceed and suspend the license or certificate with or without the physical document.~~

~~(6) Reinstatement of the License or Certificate. After a license or certificate has been suspended by an order of the court, it may be reactivated only when the noncustodial parent has complied with one of the following:~~

~~(a) The delinquency has been paid in full; or~~

~~(b) A payment plan has been agreed to and the first payment has been made.~~

~~(7) The court order suspending the license or certificate or denying the application shall contain reinstatement language. When the noncustodial parent pays the delinquency in full or enters a repayment agreement with the IV-D agency and makes the first payment, the IV-D agency shall notify the agency which issued and suspended the license or certificate or denied the application to reinstate the license or certificate or approve the application.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 61.13015, 231.097, 231.28, 409.2598, 455.203, 559.79 FS. History—New 7-20-94, Formerly 10C-25.021, Repealed _____.

12E-1.025 Procurement of Legal Services.

~~(1) Procurement of contract legal services by the IV-D agency shall be pursuant to 45 Code of Federal Regulations, Part 304, Section 304.20(b)(1)(iii) and Part 74, Subpart P., and Appendix G. These regulations are published by the United States Government and are hereby incorporated by reference. Members of the public may obtain copies from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9328.~~

~~(2) Award of a contract for legal services may be challenged as a final agency action pursuant to Section 120.57, F.S.~~

~~Rulemaking Specific Authority 120.535, 409.026 FS., Law Implemented 409.2554, 409.2557 FS., History--New 7-20-94, Formerly 10C-25.022, Repealed.~~

12E-1.026 Central Depository Electronic Transmission of Information. ~~The Department of Revenue and the Florida Association of Court Clerks and Comptrollers and the depositories pursuant to contract LZ001 are to design, establish, operate, upgrade, and maintain the automation of an electronic transfer of information from the depositories to the IV-D agency. This system hereafter shall be known as the CLERC System. A minimum of 69 local site computer systems shall network with one central site computer. The information transferred from the central site computer to the FLORIDA mainframe shall include:~~

~~(1) A monthly listing of all records as they relate to the collection and distribution of IV-D support payments.~~

~~(2) A monthly listing of IV-D accounts which identifies all delinquent accounts, the period of delinquency, and the total amount of delinquency. The listing shall be in alphabetical order by the name of the obligor, and include the obligor's name and case number.~~

~~(3) As required under Section 61.1301, F.S., income deductions, the depository shall provide to the department the date on which the payor makes each deduction from the obligor's income. The depository shall provide the date of receipt of such payments, if no date is provided by the payor, and shall report to the IV-D agency those payors who fail to provide the date support is deducted from the income of the obligor.~~

~~(4) In connection with the administration of the IV-D program the department shall submit the following information to the Clerk of Courts:~~

- ~~(a) The case number;~~
- ~~(b) The payee's social security number;~~
- ~~(c) The payor's social security number; and,~~
- ~~(d) Income deduction information.~~

~~(5) Information shall be stored at each local site for a minimum of two years. The department and the clerks of court shall provide the legislature with an estimate of the cost of continuing the CLERC System prior to June 30, 1995.~~

Rulemaking Specific Authority 409.026 FS. Law Implemented 61.181, 61.1811, 409.2557 FS.

History—New 7-20-94, Formerly 10C-25.023, Repealed _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
REPEALING RULES 12A-1.003 AND 12A-1.068

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-1.003, F.A.C. (Sales of Several Items to the Same Purchaser at the Same Time), removes unnecessary rule provisions requiring sales tax to be collected on each single sale.

The proposed repeal of Rule 12A-1.068, F.A.C. (Tire Recapping), removes an unnecessary rule regarding the recapping of tires and the sale of recapped tires.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-1.003, F.A.C. (Sales of Several Items to the Same Purchaser at the Same Time), and Rule 12A-1.068, F.A.C. (Tire Recapping), are necessary to: (1) repeal an unnecessary rule that restates the statutory requirement of Section 212.12(9), F.S., to collect tax on each single sale; and (2) remove an unnecessary rule regarding the taxability of tires repaired or altered by recapping.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2896 - 2898), to advise the public of the proposed repeal of Rule 12A-1.003, F.A.C. (Sales of Several Items to the Same Purchaser at the Same Time), and Rule 12A-1.068, F.A.C. (Tire Recapping), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12A-1.003, F.A.C. (Sales of Several Items to the Same Purchaser at the Same Time), and Rule 12A-1.068, F.A.C. (Tire Recapping). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 77 - 83), to advise the public of the proposed repeal of Rule 12A-1.003, F.A.C. (Sales of Several Items to the Same Purchaser at the Same Time), and Rule

12A-1.068, F.A.C. (Tire Recapping), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
REPEALING RULES 12A-1.003 AND 12A-1.068

12A-1.003 Sales of Several Items to the Same Purchaser at the Same Time.

~~(1) The tax shall be collected on all single sales. Single sales are to be considered as the total sales of tangible personal property, admissions or rentals made to a customer or combination of customers at any one time, inclusive of total sales made on any one visit to a place of sale. Place of sale shall be taken to mean a store or other place of business where property taxed hereunder is offered for sale at retail or at any one department where stores are arranged in departments.~~

~~(2) The question of what constitutes sales to a combination of customers is important usually on small transactions. Where several small articles costing less than 10 cents are sold to a group of persons in a single party at one time in one transaction, the total amount of the transaction is taxable as a sale of tangible personal property to a combination of customers.~~

~~(3) A department is a separate division of a store usually under the supervision of a department head where articles of a related or similar character are generally exhibited and sold.~~

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.12(9) FS.

History—Revised 10-7-68, 6-16-72, Formerly 12A-1.03, Repealed_____.

12A-1.068 Tire Recapping.

~~(1) Sales of recapped tires are taxable.~~

~~(2) The charge made for recapping a customer's tires is fully taxable.~~

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (15)(a), (16), 212.05(1) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.68, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-3, FLORIDA ADMINISTRATIVE CODE
TOURIST DEVELOPMENT TAX
REPEALING RULES 12A-3.001, 12A-3.002 AND 12A-3.006

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-3.001, F.A.C. (Scope of Rules; Imposition of the Tax), removes: (1) provisions redundant of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), as amended to clarify that Rule 12A-1.061, F.A.C., applies to certain local-option taxes imposed on transient accommodations; and (2) registration and reporting requirements that are redundant of Rules 12A-1.060 and 12A-1.056, F.A.C., and would not be applicable to requirements for registration and reporting adopted by the county self-administering the tax.

The proposed repeal of Rule 12A-3.002, F.A.C. (Taxable Status of Guests or Tenants on the Effective Date of the Levy of the Tax), removes provisions redundant of the provisions of subsection (15) of Rule 12A-1.061, F.A.C.

The proposed repeal of Rule 12A-3.006, F.A.C. (Rents Involving Fractions of a Dollar; Computation of Tax), removes unnecessary provisions regarding the imposition of the tourist development tax at 1 percent or 2 percent of each dollar and major fraction of each dollar, as provided in Section 125.0104(3)(c), F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed repeal of Rule Chapter 12A-3, F.A.C. (Tourist Development Tax), is necessary to remove provisions that are redundant of other administrative rules or redundant of statutory 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2900 - 2901), to advise the public of the proposed repeal of Rule Chapter 12A-3, F.A.C. (Tourist Development Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule Chapter 12A-3, F.A.C. (Tourist Development Tax). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol.

38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 84 - 86), to advise the public of the proposed repeal of Rule Chapter 12A-3, F.A.C. (Tourist Development Tax), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-3, FLORIDA ADMINISTRATIVE CODE
TOURIST DEVELOPMENT TAX
REPEALING RULES 12A-3.001, 12A-3.002 AND 12A-3.006

12A-3.001 Scope of Rules; Imposition of the Tax.

~~(1) The provisions of Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, govern the administration of the tourist development tax in all situations, except those in which rules have been issued by this chapter to clarify statutory provisions specifically applicable to the tourist development tax.~~

~~(2) Every person required to be registered with the Department of Revenue under Rule 12A-1.061, F.A.C., is exercising a taxable privilege when engaging in the business of renting, leasing, letting, or granting licenses to others to use transient accommodations within any county imposing the tourist development tax.~~

~~(3) With the exception of filing estimated sales tax, the provisions contained in Chapter 212, F.S., apply to the administration of any tourist development tax levied under s. 125.0104, F.S. Unless a county electing to self-administer the tourist development tax has adopted guidelines for registration and reporting requirements consistent with the provisions of Chapter 212, F.S., the provisions for registration and reporting contained in Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations, and Rule 12A-1.060, F.A.C., Registration, apply to the administration of any tourist development tax.~~

Rulemaking Specific Authority 125.0104(3)(k), 212.17(6), 212.18(2), 213.06(1) FS. Law

Implemented 125.0104, 125.0108, 212.03(1), (2), (3), (4), (5), (7) FS. History–New 3-27-78, Amended 4-16-78, 11-13-78, 5-28-85, Formerly 12A-3.01, Amended 7-29-91, 11-30-97, Repealed _____.

12A-3.002 Taxable Status of Guests or Tenants on the Effective Date of the Levy of the Tax.

~~(1) Any guest or tenant who has not rented taxable transient accommodations at one location for continuous residence for more than six months, and who does not have a bona fide written lease for periods longer than six months, as provided in subsection subsection 12A-1.061(15), F.A.C., is required to pay the tourist development on all rental charges or room rates due subsequent to that date until the guest or tenant has continuously rented those accommodations for more than six months. For example, a person who did not have a bona fide written lease for more than six months and whose rental period began four months prior to the effective date of the imposition of the tourist development tax, would be required to pay the tourist development tax for a period of two months.~~

~~(2) Any guest or tenant who has rented the same transient accommodations for continuous residence for more than six months at the time of the effective date of the imposition of the tourist development tax is not subject to that tax as long as the guest or tenant continues to rent those accommodations.~~

Rulemaking Specific Authority 125.0104(3)(k), 212.17(6), 212.18(2), 213.06(1) FS. Law

Implemented 125.0104, 212.03(1), (2), (3), (4), (5), (7) FS. History– New 3-27-78, Amended 5-28-85, Formerly 12A-3.02, Amended 11-30-97, Repealed _____.

12A-3.006 Rents Involving Fractions of a Dollar; Computation of Tax.

~~(1)(a) In those counties or sub-county special districts where the tax is levied at the rate of 1%, one cent tax shall be charged upon each dollar of rent. On rents involving fractional dollars if the fractional amount is 50 cents or less no tax shall be charged; if the fractional amount is 51 cents or more 1 cent shall be charged on the fractional amount.~~

~~(b) In those counties or sub-county special districts where the tax is levied at the rate of 2%, two cents tax shall be charged upon each dollar of rent. On rents involving fractional dollars if the fractional amount is 50 cents or less no tax shall be charged; if the fractional amount is 51 cents or more 2 cents shall be charged on the fractional amount.~~

~~(c) In those counties or sub-county special districts where the tax is levied at the rate of 3%, three cents tax shall be charged upon each dollar of rent. On rents involving fractional dollars if the fractional amount is 50 cents or less, no tax shall be charged; if the fractional amount is 51 cents or more 3 cents shall be charged on the fractional amount.~~

~~(d) In those counties or sub-county special districts where the tax is levied at the rate of 4%, four cents tax shall be charged upon each dollar of rent. On rents involving fractional dollars if the fractional amount is 50 cents or less, no tax shall be charged; if the fractional amount is 51 cents or more 4 cents shall be charged on the fractional amount.~~

~~(e) In those counties or sub-county special districts where the tax is levied at the rate of 5%, five cents tax shall be charged upon each dollar of rent. On rents involving fractional dollars if the fractional amount is 50 cents or less, no tax shall be charged; if the fractional amount is 51 cents or more, 5 cents shall be charged on the fractional amount.~~

~~(2) The tourist development tax applies to the rental charges or room rates, as provided in Rule 12A-1.061, F.A.C., before adding Florida sales tax or convention development tax, if applicable.~~

Rulemaking Specific Authority 125.0104(3)(k), 212.17(6), 212.18(2), 213.06(1) FS. Law

Implemented 125.0104, 125.0108, 212.03(1), (2), (3), (4), (5), (7) FS. History–New 3-27-78,

Amended 5-28-85, Formerly 12A-3.06, Amended 7-29-91, 3-21-95, 11-30-97, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-8, FLORIDA ADMINISTRATIVE CODE
DADE COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-8.001 AND 12A-8.002

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-8.001, F.A.C. (Scope of Rules; Imposition of the Tax), removes: (1) provisions redundant of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), as amended to clarify that Rule 12A-1.061, F.A.C., applies to certain local-option taxes imposed on transient accommodations; and (2) registration and reporting requirements redundant of Rules 12A-1.060 and 12A-1.056, F.A.C., and that would not be applicable to requirements for registration and reporting adopted by the county self-administering the tax.

The proposed repeal of Rule 12A-8.002, F.A.C. (Rate of Tax), removes unnecessary provisions regarding the imposition of the convention development tax at 2 percent of each dollar and major fraction of each dollar, as provided in Section 212.0305(4)(a)1., F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed repeal of Rule Chapter 12A-8, F.A.C. (Dade County Convention Development Tax), is necessary to remove provisions that are redundant of other administrative rules or redundant of statutory 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2901), to advise the public of the proposed repeal of Rule Chapter 12A-8, F.A.C. (Dade County Convention Development Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule Chapter 12A-8, F.A.C. (Dade County Convention Development Tax). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on

January 7, 2013 (Vol. 39, No. 4, pp. 86 - 87), to advise the public of the proposed repeal of Rule Chapter 12A-8, F.A.C. (Dade County Convention Development Tax), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-8, FLORIDA ADMINISTRATIVE CODE
DADE COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-8.001 AND 12A-8.002

12A-8.001 Scope of Rules; Imposition of Tax.

~~(1) The provisions of Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, govern the administration of the Dade County Convention Development Tax in all situations, except those in which rules have been issued by this chapter to clarify statutory provisions specifically applicable to the Dade County Convention Development Tax.~~

~~(2) Every person required to be registered with the Department of Revenue under Rule 12A-1.061, F.A.C., is exercising a taxable privilege when engaging in the business of renting, leasing, letting, or granting licenses to others to use transient accommodations within Dade County, Florida, except as provided in subsection (3) of this rule.~~

~~(3) The Dade County Convention Development Tax is not levied in any municipality, which levies a municipal tourist tax, when the governing body of such municipality adopts a resolution prohibiting the levy of the Dade County Convention Development Tax. A municipal tourist tax is levied in the Town of Surfside and the Village of Bal Harbour and the governing body of each of these municipalities has adopted a resolution prohibiting the levy of the Dade County Convention Development Tax. Thus, the Dade County Convention Development Tax is levied in all areas of Dade County, except the Town of Surfside and the Village of Bal Harbour.~~

~~(4) With the exception of filing estimated tax, the provisions contained in Chapter 212, F.S., apply to the administration of any convention development tax levied under s. 212.0305, F.S. Unless a county electing to self-administer the convention development tax has adopted guidelines for registration and reporting requirements consistent with the provisions of Chapter 212, F.S., the provisions for registration and reporting contained in Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations, and Rule 12A-1.060, F.A.C., Registration, apply to the administration of any convention development tax.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-8.01, Amended 11-30-97, Repealed_____.

12A-8.002 Rate of Tax.

~~(1) The tax adopted under the provisions of the Dade County Convention Development Tax is imposed at the rate of 3 percent of each dollar and major fraction of each dollar of the total consideration on transient rentals. On rentals involving fractional dollars if the fractional amount is 50 cents or less no tax shall be charged; if the fractional amount is 51 cents or more 3 cents shall be charged on the fractional amount.~~

~~(2) The Dade County Convention Development Tax applies to the rental charges or room rates, as provided in Rule 12A-1.061, F.A.C., before adding Florida Sales Tax, or Local Option Tourist Development Tax, if applicable.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-8.02, Amended 11-30-97, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-9, FLORIDA ADMINISTRATIVE CODE
DUVAL COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-9.001 AND 12A-9.002

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-9.001, F.A.C. (Scope of Rules; Imposition of the Tax), removes: (1) provisions redundant of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), as amended to clarify that Rule 12A-1.061, F.A.C., applies to certain local-option taxes imposed on transient accommodations; and (2) registration and reporting requirements redundant of Rules 12A-1.060 and 12A-1.056, F.A.C., and that would not be applicable to requirements for registration and reporting adopted by the county self-administering the tax.

The proposed repeal of Rule 12A-9.002, F.A.C. (Rate of Tax), removes unnecessary provisions regarding the imposition of the convention development tax at 2 percent of each dollar and major fraction of each dollar, as provided in Section 212.0305(4)(a)1., F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed repeal of Rule Chapter 12A-9, F.A.C. (Duval County Convention Development Tax), is necessary to remove provisions that are redundant of other administrative rules or redundant of statutory 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2901 - 2902), to advise the public of the proposed repeal of Rule Chapter 12A-9, F.A.C. (Duval County Convention Development Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule Chapter 12A-9, F.A.C. (Duval County Convention Development Tax). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 87 - 88), to advise the public of the proposed repeal of Rule Chapter 12A-9, F.A.C. (Duval County Convention Development Tax), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-9, FLORIDA ADMINISTRATIVE CODE
DUVAL COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-9.001 AND 12A-9.002

12A-9.001 Scope of Rules; Imposition of Tax.

~~(1) The provisions of Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, govern the administration of the Duval County Convention Development Tax in all situations, except those in which rules have been issued by this chapter to clarify statutory provisions specifically applicable to the Duval County Convention Development Tax.~~

~~(2) Every person required to be registered with the Department of Revenue under Rule 12A-1.061, F.A.C., is exercising a taxable privilege when engaging in the business of renting, leasing, letting, or granting licenses to others to use transient accommodations within Duval County, Florida.~~

~~(3) With the exception of filing estimated tax, the provisions contained in Chapter 212, F.S., apply to the administration of any convention development tax levied under s. 212.0305, F.S. Unless a county electing to self-administer the convention development tax has adopted guidelines for registration and reporting requirements consistent with the provisions of Chapter 212, F.S., the provisions for registration and reporting contained in Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations, and Rule 12A-1.060, F.A.C., Registration, apply to the administration of any convention development tax.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-9.01, Amended 11-30-97, Repealed _____.

12A-9.002 Rate of Tax.

~~(1) The tax adopted under the provisions of the Duval County Convention Development Tax is imposed at the rate of 2 percent of each dollar and major fraction of each dollar of the total consideration on transient rentals. On rentals involving fractional dollars if the fractional amount is 50 cents or less no tax shall be charged; if the fractional amount is 51 cents or more 2 cents shall be charged on the fractional amount.~~

~~(2) The Duval County Convention Development Tax applies to the rental charges or room rates, as provided in Rule 12A-1.061, F.A.C., before adding Florida Sales Tax and Local Option Tourist Development Tax.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-9.02, Amended 11-30-97, Repealed _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-10, FLORIDA ADMINISTRATIVE CODE
VOLUSIA COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-10.001 AND 12A-10.002

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-10.001, F.A.C. (Scope of Rules; Imposition of the Tax), removes: (1) provisions redundant of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), as amended to clarify that Rule 12A-1.061, F.A.C., applies to certain local-option taxes imposed on transient accommodations; and (2) registration and reporting requirements redundant of Rules 12A-1.060 and 12A-1.056, F.A.C., and that would not be applicable to requirements for registration and reporting adopted by the county self-administering the tax.

The proposed repeal of Rule 12A-10.002, F.A.C. (Rate of Tax), removes unnecessary provisions regarding the imposition of the convention development tax at 2 percent of each dollar and major fraction of each dollar, as provided in Section 212.0305(4)(a)1., F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed repeal of Rule Chapter 12A-10, F.A.C. (Duval County Convention Development Tax), is necessary to remove provisions that are redundant of other administrative rules or redundant of statutory 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2902), to advise the public of the proposed repeal of Rule Chapter 12A-10, F.A.C. (Volusia County Convention Development Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule Chapter 12A-10, F.A.C. (Volusia County Convention Development Tax). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 88 - 89), to advise the public of the proposed repeal of Rule Chapter 12A-10, F.A.C. (Volusia County Convention Development Tax), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-10, FLORIDA ADMINISTRATIVE CODE
VOLUSIA COUNTY CONVENTION DEVELOPMENT TAX
REPEALING RULES 12A-10.001 AND 12A-10.002

12A-10.001 Scope of Rules; Imposition of Tax.

~~(1) The provisions of Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, govern the administration of the Volusia County Convention Development Tax in all situations, except those in which rules have been issued by this chapter to clarify statutory provisions specifically applicable to the Volusia County Convention Development Tax.~~

~~(2) Every person required to be registered with the Department of Revenue under Rule 12A-1.061, F.A.C., is exercising a taxable privilege when engaging in the business of renting, leasing, letting, or granting licenses to others to use transient accommodations within the boundaries of any special taxing district located within Volusia County.~~

~~(3) With the exception of filing estimated tax, the provisions contained in Chapter 212, F.S., apply to the administration of any convention development tax levied under s. 212.0305, F.S. Unless a county electing to self-administer the convention development tax has adopted guidelines for registration and reporting requirements consistent with the provisions of Chapter 212, F.S., the provisions for registration and reporting contained in Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations, and Rule 12A-1.060, F.A.C., Registration, apply to the administration of any convention development tax.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-10.01, Amended 11-30-97, Repealed_____.

12A-10.002 Rate of Tax.

~~(1)(a) In those special tax districts where the tax is imposed at the rate of 2 percent, two cents shall be charged upon each dollar of rent. On rentals involving fractional dollars, if the fractional amount is 50 cents or less, no tax shall be charged; if the fractional amount is 51 cents or more, two cents shall be charged on the fractional amount.~~

~~(b) In those special districts where the tax is levied at the rate of 3 percent, three cents tax shall be charged upon each dollar of rent. On rents involving fractional dollars, if the fractional amount is 50 cents or less, no tax shall be charged; if the fractional amount is 51 cents or more, 3 cents shall be charged on the fractional amount.~~

~~(2) The Volusia County Convention Development Taxes apply to the rental charges or room rates, as provided in Rule 12A 1.061, F.A.C., before adding Florida Sales Tax, or Local Option Tourist Development Tax, if applicable.~~

Rulemaking Specific Authority 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), (3), (4), (5), (7), 212.0305 FS. History– New 5-28-85, Formerly 12A-10.02, Amended 11-30-97, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES, FEES, AND SURCHARGES
REPEALING RULES 12B-7.003 AND 12B-7.022

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12B-7.003, F.A.C. (Definitions), and Rule 12B-7.022, F.A.C. (Definitions), removes unnecessary definitions of terms for which statutory definitions are provided or terms that are no longer used in the administration of the tax on the production of oil, gas, or sulfur or on the severance of solid minerals, heavy minerals, or phosphate rock.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges), are necessary to repeal unnecessary definitions of terms.

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 8, 2012

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

Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2907 - 2908), to advise the public of the proposed repeal of Rule 12B-7.003, F.A.C. (Definitions), and Rule 12B-7.022, F.A.C. (Definitions), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12B-7.003, F.A.C. (Definitions), and Rule 12B-7.022, F.A.C. (Definitions). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 94 - 95), to advise the public of the proposed repeal of Rule 12B-7.003, F.A.C. (Definitions), and Rule 12B-7.022, F.A.C. (Definitions), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES, FEES, AND SURCHARGES
REPEALING RULES 12B-7.003 AND 12B-7.022

12B-7.003 Definitions. ~~When used in these rules, the following words and terms shall have these definitions ascribed to them, unless the intention to give a more limited meaning is disclosed by the context.~~

~~(1) Value. The sales price, or market value, at the mouth of the well. If the oil is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relationship between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the Department shall determine the value of the oil subject to tax, considering the sales price for cash at the place where produced of oil of like quality.~~

~~(2) Taxpayer. Any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind liable for the tax.~~

~~(3) Gathering System. The pipelines, pumps, compressors, meters, and other property used in gathering or removing oil, gas, or sulfur from the property on which it is produced, the tanks used for storage at a central place, loading racks and equipment for loading oil into tank cars or other transporting median and all other equipment and appurtenances necessary to a gathering system for transferring oil, gas, or sulfur.~~

Rulemaking Specific Authority 211.125(1), 213.06(1) FS. Law Implemented 211.01, 211.125

FS. History–New 12-28-78, Formerly 12B-7.03, Amended 12-18-94, Repealed_____.

~~12B-7.022 Definitions. In addition to the definitions contained in Chapter 211, F.S., the following words, terms, and phrases shall have the meaning ascribed to them in this section, unless the context clearly indicates a different meaning.~~

~~(1) Person. Any natural person, corporation, association, partnership, firm, joint venture, syndicate, company, agent, receiver, trustee, guardian, executor, administrator, fiduciary, or representative, whether acting individually or as a group or unit, including the plural as well as the singular.~~

~~(2) Taxpayer. Any person severing solid minerals, liable for the tax imposed by Chapter 211, Part II, F.S., on the severance of solid minerals.~~

~~(3) Severance Tax. The tax levied on severance of solid minerals by Chapter 211, Part II, F.S.~~

Rulemaking Authority 211.33(6), 213.06(1) FS. Law Implemented 211.30, 211.31, 211.3103, 211.3106 FS. History–New 9-17-80, Formerly 12B-7.22, Amended 12-18-94, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
REPEALING RULE 12C-1.318

SUMMARY OF PROPOSED RULE

The proposed repeal of Rule 12C-1.318, F.A.C. (Rules for Recognition of Taxpayers and Their Representatives), removes unnecessary provisions redundant of Rule 12-22.005, F.A.C. (Disclosure Procedures), and Form DR-835 (Power of Attorney and Declaration of Representative).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Rule 12-6.005, F.A.C. (Criteria for Qualified Representatives), and Form DR-835 (Power of Attorney and Declaration of Representative), provide the qualifications and requirements of taxpayer representatives. Rule 12-22.005, F.A.C. (Disclosure Procedures), provide the requirements for taxpayer representatives to receive confidential taxpayer information from the Department. The proposed repeal of Rule 12C-1.318, F.A.C. (Rules for Recognition of Taxpayers and Their Representatives), is necessary to remove provisions regarding taxpayer representatives that are addressed in these administrative rules and form.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2911), to advise the public of the proposed repeal of Rule 12C-1.318, F.A.C. (Rules for Recognition of Taxpayers and Their Representatives), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12C-1.318, F.A.C. (Rules for Recognition of Taxpayers and Their Representatives). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, p. 97), to advise the public of the proposed repeal of Rule 12C-1.318, F.A.C. (Rules for Recognition of Taxpayers and Their Representatives), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
REPEALING RULE 12C-1.318

12C-1.318 Rules for Recognition of Taxpayers and Their Representatives.

~~(1) Except as otherwise provided in this paragraph, no person may appear in a representative capacity on behalf of any taxpayer unless such person is recognized to practice before the Department. In general the following persons will be recognized to practice before the Department:~~

~~(a) Attorneys or certified public accountants who are members in good standing of the profession of law or certified public accountancy in their jurisdictions who file written declarations that they are currently qualified and authorized to act on behalf of their clients.~~

~~(b) Any person currently enrolled as an agent pursuant to the requirements of Treasury Department Circular Number 230 (incorporated by reference in Rule 12C-1.0221(1)(c), F.A.C.).~~

~~(2) A member of a partnership, an officer of a corporation, or an authorized regular employee of an individual, partnership, or corporation, may likewise appear without enrollment in any matter relating to such individual, partnership, or corporation pending before the Department if adequate identification is presented to the officials of the Department.~~

~~(3) Employees of persons recognized to practice before the Department who themselves are not so recognized, will not be recognized by offices of the Department except for the purpose of filing papers or securing information as to the status of tax cases. Recognition of such~~

~~employees for the purpose of securing information as to the status of tax cases will be given only when the employee presents, with reference to a particular case, written authority from the employer to request such information and the power of attorney or tax information authorization, if appropriate in such matter, has previously been filed by the employer.~~

~~(4) Except as otherwise provided herein, a power of attorney, in proper form, or copy thereof executed by the taxpayer will be required in a matter before the Department when the taxpayer's representative desires to perform one or more of the following acts on behalf of the taxpayer:~~

~~(a) Receipt of a check in payment of any refund of tax, penalty or interest.~~

~~(b) Execution of a waiver of restriction on an assessment or collection of a deficiency in tax.~~

~~(c) Execution of a consent to extend the statutory period for assessment or collection of a tax. The power of attorney must specify which of the acts the representative is authorized to perform and no representative will be permitted to perform any of such acts without power of attorney.~~

~~(5) Except as otherwise provided herein, in order that a taxpayer's representative may receive or inspect confidential tax information, a tax information authorization, or a copy thereof, will be required by the Department. A tax information authorization is a document signed by the taxpayer authorizing his representative to receive or inspect confidential tax information in a specified matter. The tax information authorization must be signed by the taxpayer and must specify the matter covered. Examples of the receipt or inspection of confidential information for which a tax information authorization is required are: the inspection of the taxpayer's returns; the receipt from Department officials at a conference of information disclosing the position of the~~

~~Department with respect to the taxpayer's liability; the discussion with Department officials on the substance or merits of a taxpayer's request for a ruling or determination letter and the receipt of certain notices and other communications, such as a notice of deficiency or an examining officer's report, given to a taxpayer with respect to its tax affairs. A tax information authorization will not be required for receipt of notices and other communications which do not involve the disclosure of confidential information.~~

~~(6) The use of technical language in the preparation of a power of attorney or a tax information authorization is not necessary, but the instrument should clearly express the taxpayer's intention as to the scope of the authority of the representative and should specify the tax matter to which the authority relates. If the taxpayer wishes to authorize the representative to make substitution of representatives or delegate authority to other representatives, the power of attorney must state this intention. Form DR-835, Power of Attorney and Declaration of Representative (incorporated by reference in Rule 12-6.0015, F.A.C.), is the form used for this purpose. In addition, forms for power of attorney and tax information authorization developed for use in matters pending before the Internal Revenue Service may be adapted for use in similar matters before the Department.~~

~~(7) A power of attorney or tax information authorization must be executed as follows:~~

~~(a) In the case of an individual, by such individual.~~

~~(b) In the case of a partnership, by all members, or if executed in the name of the partnership, by one of the partners duly authorized to act for the partnership.~~

~~(c) In the case of a corporation, by an officer of the corporation having authority to bind the corporation, who shall certify that he has such authority.~~

~~(d) In the case of an association, the same requirements shall be applied as in the case of~~

a corporation.

~~(e) In the case of a dissolved partnership, by each of the former partners. If one or more of the partners are dead, their legal representatives must sign in their stead.~~

~~(f) In the case of a dissolved corporation, by the liquidating trustee or trustees under dissolution, if one or more have been appointed, or by a trustee deriving authority under a statute of the state in which the corporation was organized. If there is more than one trustee, all must join unless it is established that less than all have authority to act in the matter under consideration. If there is no trustee, the power of attorney or tax information authorization must be signed by a sufficient number of individuals to constitute a majority of the voting stock of the corporation as of the date of dissolution.~~

~~(g) In the case of an insolvent taxpayer, by the trustee, receiver, or attorney appointed by the court.~~

~~(8) Although the Department requires the taxpayer's representative to file a tax information authorization in order for such representative to receive or inspect confidential information in a matter, if such representative in connection with a matter has filed a power of attorney in order to perform one or more acts, the representative will be entitled to receive or inspect confidential information in the same matter without being required to file a separate tax information authorization.~~

~~(9) A tax information authorization is not required of a taxpayer's representative at a conference also attended by the taxpayer. Unless the Department officials are advised to the contrary, in such a case, it will be presumed that the taxpayer in whose behalf the representative appears places no limitations upon the authority of the representatives to receive confidential information at the conference.~~

~~(10) A power of attorney or a tax information authorization is not required in case of a trustee, receiver or attorney appointed by a court having jurisdiction over a debtor.~~

~~(11) The Executive Director or the Executive Director's designee may, with respect to performance of a specific act, substitute a requirement other than power of attorney or a tax information authorization for appropriate evidence of the authority of the taxpayer's representative.~~

~~(12) Evidence of recognition must be submitted by the representative at the initial meeting with the Department in which the representation first takes place. Once evidence of recognition has been submitted, it will not be necessary to submit it again either in the same office or other offices of the Department which subsequently have the same matter under consideration. In the case of a qualified attorney or a qualified certified public accountant, the filing of the applicable written declaration described in subsection (1)(a) of this section constitutes evidence of recognition. A standard written declaration form is available in Department offices. In the case of a person currently enrolled as an agent pursuant to Treasury Department Circular 230, the demonstration that the holder has a valid enrollment card constitutes evidence of recognition.~~

~~(13) If a representative desires to represent a taxpayer through correspondence with the Department, the requirements of recognition and submission of evidence thereof and, if applicable, of submission of power of attorney or taxpayer information authorization must be met even though no actual appearance is made.~~

~~(14) Any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the Department shall be given to the taxpayer's recognized representative. However, if such notice or communication contains confidential~~

information with respect to the taxpayer, the notice or communication will be given to the representative only if there is on file with the Department a power of attorney or a tax information authorization in the matter signed by the taxpayer. It will be the practice of the Department, to the extent feasible, to give copies of notices and other written communications to whichever of the representatives is designated by the taxpayer to receive such communications in the latest power of attorney or tax information authorization. In no event will failure to give notice or other written communication to a taxpayer's representative affect its validity which is to be determined solely under the provisions of the Florida Statutes. In the case of a request for a ruling, if it is desired that the original of the ruling (or any correspondence in connection therewith) be addressed to the taxpayer's recognized representative, the power of attorney or tax information authorization should contain a statement to that effect and designate the mailing address of such representative.

(15) A taxpayer may revoke the power of attorney or tax information authorization granted to a representative without authorizing a new representative to act. Upon revocation of a power of attorney or a tax information authorization when no new power of attorney or tax information authorization is executed, the taxpayer must send a signed statement to those offices of the Department where copies of the power of attorney or tax information authorization were originally filed, listing the names of the representatives whose authority is revoked.

(16) A new power of attorney or new tax information authorization will be deemed as revoking a prior power of attorney or tax information authorization with respect to the same matter if there is attached to the new power of attorney or tax information authorization a statement signed by the taxpayer listing the names and addresses of all representatives under such prior power of attorney or tax information authorization whose authority is revoked. A new

~~power of attorney or tax information authorization will not be deemed as revoking a prior power of attorney or tax information authorization if it contains a clause specifically stating that it does not revoke such prior power of attorney or tax information authorization, and there is attached to the new power of attorney a copy of the unrevoked prior power of attorney or tax information authorization or a statement signed by the taxpayer listing the names and addresses of all representatives authorized under the prior power of attorney or tax information authorization.~~

~~(17) When a taxpayer's representative has unreasonably delayed or hindered an audit or examination by failing to furnish, after repeated requests, non-privileged information necessary to conduct the audit or examination, the Department representative conducting the audit or examination may report the situation to the Senior Audit Supervisor and request permission to contact the taxpayer directly for such information. The Senior Audit Supervisor will carefully consider the situation and make a determination as to whether such permission should be granted. If such permission is granted, the case file will be documented with sufficient facts to show how the examination was being delayed or hindered and written notice of such permission briefly stating the reason why it was granted will be given to the representative and the taxpayer.~~

Rulemaking Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.62, 213.053, 220.731 FS. History—New 10-20-73, Amended 10-8-74, Formerly 12C-1.53(r)-(t), Amended and Renumbered 2-27-78, Amended 12-21-88, 4-8-92, Repealed _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-2, FLORIDA ADMINISTRATIVE CODE
ORGANIZATION AND GENERAL INFORMATION
REPEALING RULES 12-2.021, 12-2.027 AND 12-2.028

SUMMARY OF PROPOSED RULES

The proposed repeal of Rules 12-2.021, 12-2.027, and 12-2.028, F.A.C., removes provisions for the indexing or listing of final orders that are redundant of other administrative rules.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed repeal of Rule 12-2.021, F.A.C. (Purpose), Rule 12-2.027, F.A.C. (System for Indexing Final Orders), and Rule 12-2.028, F.A.C. (Maintenance of Final Orders), is to remove unnecessary requirements and provisions regarding the indexing and handling of final orders that are redundant of Department of State Rules 1B-32.001 and 1B-32.002, F.A.C., of Rule Chapter 1B-32, F.A.C. (Indexing, Management, and Availability of Final Orders).

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2890 - 2891), to advise the public of the proposed repeal of Rule 12-2.021, F.A.C. (Purpose), Rule 12-2.027, F.A.C. (System for Indexing Final Orders), and Rule 12-2.028, F.A.C. (Maintenance of Final Orders), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12-2.021, F.A.C. (Purpose), Rule 12-2.027, F.A.C. (System for Indexing Final Orders), and Rule 12-2.028, F.A.C. (Maintenance of Final Orders). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 67 - 68), to advise the public of the proposed repeal of Rule 12-2.021, F.A.C. (Purpose), Rule 12-2.027, F.A.C. (System for Indexing Final Orders), and Rule

12-2.028, F.A.C. (Maintenance of Final Orders), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-2, FLORIDA ADMINISTRATIVE CODE
ORGANIZATION AND GENERAL INFORMATION
REPEALING RULES 12-2.021, 12-2.027 AND 12-2.028

12-2.021 Purpose. ~~The purpose of this part is to provide public access to final orders by providing for the indexing or listing of final orders.~~

Rulemaking Authority 120.54(1) FS. Law Implemented 120.53(1), (2), (3) FS. History—New 11-11-92, Repealed.

12-2.027 System for Indexing Final Orders. ~~The index shall be alphabetically arranged and otherwise in accordance with the requirements of Rule 1B-32.002, F.A.C.~~

Rulemaking Authority 120.533(1), 213.06(1) FS. Law Implemented 120.53(2), (3), (4) FS. History—New 11-11-92, Repealed.

12-2.028 Maintenance of Final Orders. ~~Final orders that must be indexed or listed pursuant to this part shall be permanently maintained by the agency pursuant to the retention schedule approved by the Department of State, Division of Library and Information Services.~~

Rulemaking Authority 120.533(1), 213.06(1) FS. Law Implemented 119.041(2) FS. History—New 11-11-92, Repealed.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
REPEALING RULE 12-3.006

SUMMARY OF PROPOSED RULE

The proposed repeal of Rule 12-3.006, F.A.C. (Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders), removes provisions regarding the Department's official reporter for final orders that are redundant of another administrative rule.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Subsection (3) of Rule 12-2.022(3), F.A.C. (Public Inspection and Copying), designates the Florida Administrative Law Reporter as the Department's official reporter for final orders, except for child support enforcement. The purpose of the proposed repeal of Rule 12-3.006, F.A.C. (Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders), is to remove this rule that is redundant of Rule 12-2.022(3), F.A.C., which also designates the official reporter of the Department for its final orders.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2891), to advise the public of the proposed repeal of Rule 12-3.006, F.A.C. (Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12-3.006, F.A.C. (Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 68 - 69), to advise the public of the proposed repeal of Rule 12-3.006, F.A.C. (Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders), and to provide that, if requested, a rule hearing would be held on January 29,

2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
REPEALING RULE 12-3.006

12-3.006 Designation of Official Reporter to Publish and Index Subject Matter Relating to Agency Orders. ~~The Florida Department of Revenue hereby designates as its official reporter for the years 1975 through the Florida Administrative Reporter, published by the Florida Administrative Reporter, Inc., P. O. Box 1391, Tallahassee, Florida 32301; and for all years beginning 1980 the Florida Administrative Law Reports published by Florida Administrative Law Reports (F.A.L.R.), 618 N. E. 2nd Street, Gainesville, Florida 32601.~~

Rulemaking Authority 120.53(1)(c), (2)(a), 213.06(1) ~~120.54(1)~~ FS. Law Implemented 20.05, 120.53(1), (2) FS. History—New 2-14-80, Amended 8-26-81, Formerly 12-3.06, Repealed.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-15, FLORIDA ADMINISTRATIVE CODE
DEBT COLLECTION SERVICES
REPEALING RULES 12-15.001 AND 12-15.005

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12-15.001, F.A.C. (Debt Collection Contracts), removes unnecessary provisions regarding the Department's authority under section 213.27, F.S., to enter into contracts with debt collection agencies to collect certain delinquent taxes.

The proposed repeal of Rule 12-15.005, F.A.C. (Confidentiality), removes unnecessary provisions regarding the confidentiality of state tax information required in the performance of contracts with the Department to collect certain delinquent taxes that are provided in section 213.27, F.S., and in Rule 12-22.004(5), F.A.C.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed repeal of Rule Chapter 12-15, F.A.C. (Debt Collection Services), is to remove provisions that are redundant of section 213.27, F.S., or are unnecessary. The repeal of the rule sections in Rule Chapter 12-15, F.A.C., will remove unnecessary rules on debt collections contracts authorized under section 213.27, F.S.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2893), to advise the public of the proposed repeal of Rule Chapter 12-15, F.A.C. (Debt Collection Services), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule Chapter 12-15, F.A.C. (Debt Collection Services). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on

January 7, 2013 (Vol. 39, No. 4, pp. 69 - 70), to advise the public of the proposed repeal of Rule Chapter 12-15, F.A.C. (Debt Collection Services), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-15, FLORIDA ADMINISTRATIVE CODE
DEBT COLLECTION SERVICES
REPEALING RULES 12-15.001 AND 12-15.005

12-15.001 Debt Collection Contracts.

~~(1) The Department of Revenue may, for the purpose of collecting any taxes due from a taxpayer, contract for debt collection with any debt collection agency or attorney for the collection of taxes plus any penalties and interest, regardless of whether such taxes have become delinquent. Additionally, the Department of Revenue may contract with any individual or business to identify potential intangible personal property tax liability for the purpose of collecting taxes plus any penalties and interest.~~

~~(2) The Department of Revenue shall enter into a contract with a debt collection agency, attorney, or other individual or business, under such terms and conditions as the Department of Revenue deems necessary for fair, efficient, and effective administration.~~

~~(3) The Process Manager, Taxpayer Services Process, General Tax Administration, or his or her designee, shall be responsible for ensuring the performance of the contract terms and shall serve as liaison with the debt collection agency, attorney, or individual or business contracted under s. 213.27, F.S.~~

~~(4) The contract(s) shall be made pursuant to Chapter 287, F.S.~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 213.27 FS. History—New 3-2-86, Amended 12-7-92, 11-17-93, Repealed _____.

12-15.005 Confidentiality.

~~(1) The Department of Revenue may share confidential state tax information, only to the extent necessary in the performance of the contract, with a debt collection agency, attorney, or other individual or business designated by such contract as an agent of the Department of Revenue.~~

~~(2) The debt collection agency or attorney, its employees and agents, or other individuals or businesses contracted under s. 213.27, F.S., shall be bound by the same requirements of confidentiality as the Department of Revenue. As provided under s. 213.053(2), F.S., breach of confidentiality is a misdemeanor of the first degree punishable as provided in ss. 775.082 and 775.083, F.S.~~

~~(3) The contractor shall permit the Florida Department of Revenue to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract.~~

~~(4) The contractor shall assume responsibility for the safety and security of confidential records, and the contract shall so provide. All confidential information shall be securely stored in a manner to prevent access by unauthorized persons.~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 213.27 FS. History—New 3-2-86, Amended 11-17-93, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-19, FLORIDA ADMINISTRATIVE CODE
REPORTS OF LARGE CURRENCY TRANSACTIONS
REPEALING RULE 12-19.001

SUMMARY OF PROPOSED RULE

The proposed repeal of Rule 12-19.001, F.A.C., removes unnecessary provisions regarding the reporting requirements of the Money Laundering Control Act.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed repeal of Rule 12-19.001, F.A.C. (Scope of Rule), is to remove unnecessary provisions that are redundant of provisions contained in Rule 12-19.002, F.A.C., regarding the reporting of large currency transactions pursuant to the Money Laundering Control Act.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

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

Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2894), to advise the public of the proposed repeal of Rule 12-19.001, F.A.C. (Scope of Rule), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12-19.001, F.A.C. (Scope of Rule). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 71 - 72), to advise the public of the proposed repeal of Rule 12-19.001, F.A.C. (Scope of Rule), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-19, FLORIDA ADMINISTRATIVE CODE
REPORTS OF LARGE CURRENCY TRANSACTIONS
REPEALING RULE 12-19.001

12-19.001 Scope of Rule.

~~These rules are used by the Department of Revenue to administer and enforce the state reporting requirements imposed under the Money Laundering Control Act with respect to large currency transactions.~~

Rulemaking Authority 896.102(3) FS. Law Implemented 896.102 FS. History—New 2-18-88,
Repealed.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
REPEALING RULES 12-22.001, 12-22.003, AND 12-22.004

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12-22.001, F.A.C. (Scope of Information), Rule 12-22.003, F.A.C. (Confidentiality of Tax Information), and Rule 12-22.004, F.A.C. (Access to Tax Information), removes unnecessary rules redundant of the statutory provisions regarding the confidentiality of information received by the Department.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12-22, F.A.C. (Confidentiality and Disclosure of Tax Information), are necessary to repeal those rules that are redundant of Section 213.053, F.S.

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 8, 2012

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

Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2894 - 2895), to advise the public of the proposed repeal of Rule 12-22.001, F.A.C. (Scope of Information), Rule 12-22.003, F.A.C. (Confidentiality of Tax Information), and Rule 12-22.004, F.A.C. (Access to Tax Information), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12-22.001, F.A.C. (Scope of Information), Rule 12-22.003, F.A.C. (Confidentiality of Tax Information), and Rule 12-22.004, F.A.C. (Access to Tax Information). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 72 - 75), to advise the public of the proposed repeal of Rule 12-22.001, F.A.C. (Scope of Information), Rule 12-22.003, F.A.C. (Confidentiality of Tax Information), and Rule 12-22.004, F.A.C. (Access to Tax Information), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the

Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
REPEALING RULES 12-22.001, 12-22.003, AND 12-22.004

12-22.001 Scope of Rules. ~~This chapter sets forth the rules to be used by the Department of Revenue in the administration and enforcement of Section 213.053, F.S., relating to the confidentiality and disclosure of tax information.~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 192.105, 193.074, 195.027, 195.084, 196.101, 201.022, 206.27, 211.125, 211.33, 212.0305(3)(d), 213.053, 213.21, 213.22, 213.27, 220.242, 336.025(2)(a), 896.102(2) FS. History—New 12-18-88, Repealed.

12-22.003 Confidentiality of Tax Information.

~~(1) The Department of Revenue shall protect the confidentiality of all tax information as required by Section 213.053, F.S. Access to tax information under Section 213.053, F.S., shall be restricted to those agents or employees of the Department who have a need to access the information to perform their duties, except where disclosure to other persons or entities is authorized by statute.~~

~~(2) All tax information is confidential and may not be disclosed except for official purposes. Tax information is exempt from the public inspection and examination provisions of Chapter 119, F.S. No Department employee, or agent, shall permit the disclosure of tax information except as provided in Section 213.053, F.S., and in these rules. However, the~~

~~Department may disclose statistics so classified as to prevent identification of particular accounts. The Department may also disclose technical assistance advisements from which taxpayer particulars have been deleted as required by Section 213.22, F.S.~~

~~(3) Exceptions to the general rule of confidentiality are:~~

~~(a) A taxpayer, a taxpayer's authorized representative, or the personal representative of an estate may inspect a taxpayer's return and may receive a copy of the return. State tax information may also be disclosed pursuant to written authorization filed with the Department by a taxpayer.~~

~~(b) Records and files appertaining to Chapter 206, F.S., Motor and Other Fuel Taxes, are public unless such information concerns audits in progress or those records and files which are currently the subject of pending investigation by the Department or the Florida Department of Law Enforcement. Copies of returns released for unofficial purposes, or to persons other than the taxpayer or his authorized representative, will be subject to a fee covering the cost of duplication or certification as provided in Section 119.07, F.S.~~

~~(c) The name and address of any institution, organization, individual, or other entity possessing a valid sales tax exemption certificate may be disclosed upon request.~~

~~(d) Additionally, with respect to a request for verification of a certificate of registration issued pursuant to Section 212.18, F.S., the Department may disclose whether the person specified by the requester holds a valid certificate of registration or whether a specified certificate of registration is valid and the name of the holder. In other words, the Department may verify the validity of certain sales tax registration information which is required to be conspicuously displayed at a dealer's place of business, as provided in Section 212.18(3), F.S., or contained in a resale certificate issued pursuant to Section 212.07(1)(b), F.S., and Rule 12A-~~

~~1.039, F.A.C. The Department shall not disclose a certificate of registration number or any other tax information except as strictly provided in Section 213.053, F.S.~~

~~(e) The Department may also disclose certain state sales tax information relating to the cancellation or revocation of sales and use tax certificates for the failure to collect and remit sales tax. This information is limited to the sales tax certificate number, trade name, owner's name, business location address, and the reason for the cancellation or revocation.~~

~~(4)(a) Federal tax information received by the Department is confidential and shall not be disclosed by the Department except as strictly provided in 26 U.S.C. s. 7213 or 26 U.S.C. s. 6103. All federal tax information must be removed from records which are subject to disclosure under Section 213.053(2), F.S.~~

~~(b) Federal statutes 26 U.S.C. s. 7213 and 26 U.S.C. s. 6103 are hereby incorporated by reference in these rules. Copies of these federal laws may be obtained by written request directed to the Office of the General Counsel, Technical Assistance and Dispute Resolution, Florida Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443.~~

~~(5) Any current or former Department employee or officer who makes or participates in an unauthorized disclosure of confidential tax information is subject to criminal penalties provided in Section 213.053, F.S., and other penalties provided by law. Such person shall also be subject to disciplinary action up to and including dismissal. Unauthorized disclosures which involve federal tax information are additionally subject to the criminal felony provisions of 26 U.S.C. s. 7213(a)(2).~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 125.0104, 125.0108, 192.105, 193.074, 195.027, 195.084, 196.101, 201.022, 206.27, 211.125, 211.33, 212.0305, 212.084, 213.053, 213.21, 213.22, 213.27, 220.242, 336.025, 370.07(3), 403.718, 403.7185, 403.7195,

538.11, 624.5092, 896.102(2) FS. History—New 12-18-88, Amended 2-13-91, 11-14-91, 6-23-92,
Repealed.

12-22.004 Access to Tax Information.

~~(1) Federal and State Information Sharing Agreements.~~

~~(a) Agencies of the Federal government or other states which have entered into reciprocal information sharing agreements with the Department may receive state tax information. All requests for such information shall be routed through the Security and Disclosure Officer for review and clearance prior to disclosure. Federal tax information received by the Department pursuant to information sharing agreements cannot be disclosed by employees of the Department except as strictly provided in 26 U.S.C. s.7213 or 26 U.S.C. s. 6103.~~

~~(b) The following federal and state representatives, exclusively in the performance of their official duties, are authorized to receive state tax information from the Department to comply with formal agreements for the mutual exchange of information:~~

- ~~1. The Secretary of the Treasury of the United States, or his delegate;~~
- ~~2. The Commissioner of the Internal Revenue of the United States, or his delegate;~~
- ~~3. The Secretary of the Department of the Interior of the United States, or his delegate;~~
- ~~4. The proper disclosure officer of any state, or his delegate.~~

~~(c) The Department may provide certain state tax information to a United States Trustee, or his designee, for any United States Bankruptcy Court, exclusively for official purposes involving the administration of a bankruptcy estate. Disclosure is limited to state tax information relating to the payment or nonpayment of taxes imposed under any revenue law of this state, including any amounts paid or due, by a trustee, debtor, or debtor in possession. Requests for~~

~~such information should be directed to the Administrator, Bankruptcy Section, P.O. Box 6668, Tallahassee, Florida 32314 6668.~~

~~(d) The Department may also provide state tax information to the Nexus Program of the Multistate Tax Commission pursuant to a formal information sharing agreement between the Executive Director and the Commission for the mutual exchange of taxpayer information.~~

~~(2) Specified Agencies and Designated Employees of the State of Florida.~~

~~(a) State agencies and certain designated employees, in the performance of their official duties, may access state tax information received by the Department of Revenue, as provided in Sections 213.053(6) and (7), F.S., as follows:~~

~~1.a. The Auditor General, the Comptroller, the Treasurer, and the Insurance Commissioner, or their authorized agents, may, in the performance of their official duties, obtain any state tax information received by the Department of Revenue in the administration of taxes.~~

~~b. Additionally, state tax information shall be provided to those designated employees of the Executive Office of the Governor, who, in the performance of their official duties, are directly responsible for the determination of each school district's price level index pursuant to Section 236.081(2), F.S. Supervisors of those designated employees, or any other employee or elected official within the Executive Office of the Governor shall not have access to such state tax information. However, the Department will make no disclosure of federal tax information to any state agencies or to any designated employee of the Executive Office of the Governor, except as strictly provided in 26 U.S.C. s. 7213 or 26 U.S.C. s. 6103(b).~~

~~e. The principals of the Revenue Estimating Conference, and their designees, may also receive state tax information pursuant to a written agreement between the Executive Director and conference principals for the purpose of developing official revenue estimates.~~

~~2. The Department of State, Division of Corporations, may receive, in the conduct of its official duties, names, addresses, and dates of commencement of business activities of corporations, pursuant to a written agreement between the Executive Director and the agency. Additionally, the Division of Corporations may receive the name, address, federal employer identification number, and duration of tax filings with this state of all corporate or partnership entities which are not on file, or have a dissolved status with the division, and which have filed tax returns pursuant to either Chapter 199, F.S., (intangible personal property tax) or Chapter 220, F.S., (corporate income tax) with the Department of Revenue.~~

~~3. The Department of Business and Professional Regulation may receive the following information pursuant to a written agreement between the Executive Director and the agency. The Division of Alcoholic Beverages and Tobacco may receive information relative to Chapter 212, F.S., Tax on Sales, Use, and Other Transactions and Chapters 561-568, F.S., Beverage Laws. The Division of Florida Land Sales, Condominiums, and Mobile Homes may receive information relative to Chapter 212, F.S., Tax on Sales, Use, and Other Transactions and Sections 326.001-.006, F.S., the Yacht and Ship Broker's Act, in the conduct of its official duties. The Division of Hotels and Restaurants may receive names, addresses, and sales tax registration information in the conduct of its official duties.~~

~~4. State tax information relating to Chapter 211, F.S., Tax on Severance and Production of Minerals; Chapter 376, F.S., Pollutant Discharge Prevention and Removal; and Chapter 377, F.S., Energy Resources, may be provided to those state agencies which, pursuant to written agreement between the Executive Director and each agency, request in writing such information as required in the performance of their official duties.~~

~~5. The Department of the Lottery and the Department of Banking and Finance, in the~~

~~conduct of their official duties, may receive names, addresses, taxpayer identification numbers, and outstanding tax liabilities pursuant to a written agreement between the Executive Director and these agencies.~~

~~6. The Department of Environmental Protection, in the conduct of its official duties, may receive information relative to Chapter 212, F.S., Tax on Sales, Use, and Other Transactions and names and addresses of persons paying taxes pursuant to Part IV of Chapter 206, Fuel and Other Pollutants, pursuant to a written agreement between the Executive Director and the agency.~~

~~7. The Department of Banking and Finance, federal, state, local law enforcement and prosecutorial agencies may, upon request, receive reports of large currency transactions filed with the Department pursuant to Section 896.102(1), F.S.~~

~~8. The Title IV-D child support enforcement program of the Department of Revenue may receive location information limited to the names and addresses contained in returns, reports, accounts or declarations filed with the Department by persons subject to any of the taxes enumerated in Section 213.05, F.S., to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. Additionally, the Department may disclose asset information limited to the number of units, value, and description of all intangible personal property contained in returns, reports, accounts, or declarations filed with the Department by persons subject to tax pursuant to Chapter 199, F.S., to the title IV-D child support program to assist in the location of assets owned by parents. Employees of the Title IV-D child support enforcement program are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the Department. This exemption is subject to the Open Government Sunset Review Act in accordance with Section 119.14, F.S.~~

~~9. The Office of Agricultural Law Enforcement, Department of Agriculture and~~

~~Consumer Services, may receive in the performance of its official duties, certain state sales tax information for use in the Bill of Lading Program. This information is limited to a taxpayer's business name and a statement about a taxpayer's compliance with Sales and Use tax law.~~

~~(b) Requests for only statistical information should be directed to the Process Manager, Tax Research Process, or to the Program Director, Information Services Program, Carlton Building, Tallahassee, Florida 32399-0100, as appropriate. Other official requests from authorized state agencies should be disclosed according to procedures approved by the Security and Disclosure Officer. The Security and Disclosure Officer shall maintain all written agreements between the Executive Director and agencies authorized to receive information and periodically review the procedures and the disclosure activity of the agency to ensure compliance with statutes governing the confidentiality of tax information. Any questions or requests not covered by existing procedures or agreements should be directed to the Security and Disclosure Officer, P. O. Box 37372, Tallahassee, Florida 32315-9998. State agencies receiving state tax information from the Department are bound by the same requirements of confidentiality and the same penalties for violation of these requirements as the Department of Revenue, as provided in Section 213.053, F.S., and other applicable law.~~

~~(3) Local Government. Local governments and certain county officials in this state may obtain state tax information only as provided in Sections 213.053(6) and (9), F.S., and Section 213.0535, F.S.~~

~~(a) The governing body of a municipality, county, or a subcounty taxing district may receive the names and addresses of registered sales tax dealers who reside within or adjacent to the taxing boundaries of the county or subcounty district, provided such governing bodies comply with the requirements in Section 213.053(9), F.S.~~

~~(b) The property appraiser or tax collector, or their authorized agents, are authorized in the performance of their duties to receive pursuant to Section 195.084(1), F.S., useful state records and returns received by the Department in connection with the administration of taxes. The property appraiser, tax collector, and their authorized agents are subject to the same requirements of confidentiality and the same penalties for violation of the requirements as the Department as provided in Section 213.053, F.S. All such requests for disclosure of state tax information shall be made through the Security and Disclosure Officer, P. O. Box 37372, Tallahassee, Florida 32315-9998. The following conditions must be followed by the property appraiser or tax collector in order to receive state tax information:~~

- ~~1. No federal tax information will be made available.~~
- ~~2. All property appraisers and tax collectors, their employees or agents who are to review state tax information must acknowledge in writing that they are aware of the criminal penalties for violation of Section 213.053, F.S.~~
- ~~3. The specific titles of persons within the property appraiser's and tax collector's office who will view state tax information must be listed.~~
- ~~4. The person receiving such information shall use the information only for official purposes.~~
- ~~5. The person receiving state tax information shall not disclose such information.~~
- ~~6. The person receiving state tax information shall either keep the information under lock and key or burn or shred such information.~~
- ~~7. The person within the property appraiser's or tax collector's office whose duty it is to see that such conditions are strictly met must be designated.~~

~~(c) The Department of Revenue is authorized to establish a Registration Information~~

~~Sharing and Exchange Program and share pursuant to written agreement such information as specified, with other state agencies and units of the local government as provided in Section 213.0535, F.S., and the rules of the Department.~~

~~(4) Disclosure Pursuant to Court Order or Subpoena.~~

~~(a) State tax information is subject to disclosure only under an order of a judge of a court of competent jurisdiction or a criminal subpoena duces tecum (except RICO Act subpoenas), as provided in Section 213.053(8), F.S. All returns, reports, accounts or declarations received by the Department, including investigative reports and information, or information contained in such documents, except federal tax information, shall be provided pursuant to an order of a judge of a court of competent jurisdiction or pursuant to a subpoena duces tecum, only when the subpoena is:~~

~~1. Issued by a state attorney, United States Attorney, or a court in a criminal investigation, or a criminal judicial proceeding;~~

~~2. Issued by a state attorney, the Department of Legal Affairs, a United States Attorney, or a court in the course of a civil investigation or a civil judicial proceeding under the state or federal Racketeer Influenced and Corrupt Organization Act.~~

~~(b) Subpoenas under Section 213.053(8), F.S., seeking disclosure of reports of large currency transactions filed with the Department under Section 896.102(1), F.S., should be addressed to the Criminal Investigations Process Owner, Florida Department of Revenue, 5050 W. Tennessee Street, Capital Center Complex, Tallahassee, Florida 32399-0100, as custodian of the reports.~~

~~(c) Orders of a judge and criminal and RICO Act subpoenas which seek disclosure of all other tax information should be served on the Records Center Manager, Return and Revenue~~

Processing, 5050 West Tennessee Street, Tallahassee, Florida 32399-0158, as the designated custodian of records for the Department.

~~(d) In civil cases (except RICO cases), an order of a judge of a court of competent jurisdiction is required to divulge state tax information.~~

~~(5) Debt Collection Agencies.~~

~~(a) The Department may disclose state tax information as necessary to those debt collection agencies, attorneys, or auditing agencies contracted pursuant to Chapter 287, F.S., for the purpose of collecting any taxes, including penalty and interest, on behalf of the Department.~~

~~(b) Debt collection or auditing agencies contracted by the Department shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is punishable as provided in Section 213.053, F.S.~~

~~(6) Private Auditors Under Contract.~~

~~(a) The Department may enter into contracts with certified public accountants to audit certain taxpayer accounts on behalf of the Department, under the conditions provided in Section 213.28, F.S.~~

~~(b) Certified public accountants who enter into such contracts are bound by the same confidentiality requirements and subject to the same penalties for disclosure as provided for in Sections 213.053 and 213.28, F.S., and these rules. Willful violations of the confidentiality provisions by private auditors are punishable as provided in Section 213.28(4), F.S.~~

~~(7) Law Enforcement Personnel.~~

~~(a) The Department may, with respect to a request by a law enforcement officer, verify a certificate of registration issued pursuant to Section 538.09, F.S., to a specified secondhand dealer or pursuant to Section 538.25, F.S., to a specified metals recycler. For the purpose of this~~

rule, “law enforcement officer” has the meaning prescribed in Section 943.10, F.S.

~~(b) As provided in Section 213.053(10), F.S., the Department may disclose only whether a specified person holds a valid certificate number or whether a specified certificate number is valid and the name of the holder of such certificate. All other state tax information is confidential and subject to disclosure only as strictly provided pursuant to Section 213.053, F.S.~~

~~(8) Disclosure of Transferee Liability. The Department of Revenue, in the conduct of its official duties, may provide to a person against whom transferee liability is being asserted pursuant to Section 212.10(1), F.S., information relating to the basis of a claim.~~

~~(9) Compensation for Information. The Department may disclose to a person entitled to compensation pursuant to Section 213.30, F.S., the amount of any tax, penalty or interest collected as a result of information furnished by such person to the Department.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 24.108(5), 212.10(1), 213.05, 213.053, 213.0535, 213.054, 213.22, 213.27, 213.28, 213.30, 896.102 FS. History—New 12-18-88, Amended 12-6-89, 2-13-91, 11-14-91, 1-5-93, 12-13-94, Repealed_____.

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
REPEALING RULE 12-24.030

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12-24.030, F.A.C. (Records Retention - Time Period), removes an unnecessary rule that only refers to a statutory provision.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed repeal of Rule 12-24.030, F.A.C. (Records Retention - Time Period), removes an unnecessary rule.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2895 - 2896), to advise the public of the proposed

repeal of Rule 12-24.030, F.A.C. (Records Retention - Time Period), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed repeal of Rule 12-24.030, F.A.C. (Records Retention - Time Period). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 75 - 77), to advise the public of the proposed repeal of Rule 12-24.030, F.A.C. (Records Retention - Time Period), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. 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

REPEALING RULE 12-24.030

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

12-24.030 Records Retention - Time Period. ~~All records required to be retained under this chapter shall be preserved pursuant to Section 213.35, F.S.~~

Rulemaking Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.35 FS.

History—New 10-24-96, Amended 4-30-02, Repealed.

ATTACHMENT 3



Interim
Executive
Director
Marshall Stranburg

April 2, 2013

MEMORANDUM

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

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Cabinet Affairs
Erin Sumpter, Cabinet Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer Services
Attention: Jim Boxold, Chief Cabinet Aide
Brooke McKnight, Cabinet Aide

THRU: Marshall Stranburg, Interim Executive Director

FROM: Andrea Moreland, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules –
Issues Noted in the Comprehensive Rule Review Submitted to the Office of Fiscal Accountability and Regulatory Reform in December 2011

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

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

What is the Department Requesting? The Department requests final adoption of the following proposed rules, and approval to file and certify them with the Secretary of State under Chapter 120, Florida Statutes:

- Child Support Enforcement Program Office (*Rule 12E-1.015, F.A.C.*)
- Sales and Use Tax (*Chapter 12A-1, F.A.C.*)
- Communications Services Tax (*Chapter 12A-19, F.A.C.*)
- Fee on the Sale or Lease of Motor Vehicles (Lemon Law Fee) (*Chapter 12A-13, F.A.C.*)
- Fuel Tax (*Chapter 12B-5, F.A.C.*)
- Severance Taxes (*Chapter 12B-7, F.A.C.*)
- Tax on Perchloroethylene (*Chapter 12B-12, F.A.C.*)
-
- Tax on Governmental Leasehold Estates (*Chapter 12C-2, F.A.C.*)
- Administrative Rules (*Chapters 12-16, 12-18, 12-22, and 12-24, F.A.C.*)

Why are the proposed rules necessary? During the recent comprehensive review of the Department's general tax administration and child support enforcement rules submitted to the Office of Fiscal Accountability and Regulatory Reform in December 2011, provisions requiring updating and provisions no longer necessary were identified. These rule changes are necessary to update the provisions identified and to repeal those provisions that are no longer necessary.

What do the proposed rules do?

Child Support Enforcement Program Office

- The proposed rule amendment removes a provision that is inconsistent with the Child Support Enforcement Title IV-D State plan. The proposed amendment also corrects the cite to rulemaking authority and law implemented in the history notes; lists the foreign jurisdictions with which Florida has reciprocal agreements for child support enforcement services; and provides a hyperlink that members of the public can use to access a copy of the reciprocal agreements (*Rule 12E-1.015, F.A.C.*)

Sales and Use Tax

- Removes obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999 (*Rules 12A-1.014, 12A-1.034, 12A-1.064, and 12A-1.0641, F.A.C.*)
- Updates reference to persons previously licensed or registered under Chapter 470 or 497, F.S., to those persons licensed under Chapter 497, F.S., for purposes of the exemption for funerals and the taxability of monuments (Chapter 2004-301, L.O.F.) (*Rule 12A-1.035, F.A.C.*)
- Corrects the value of a U.S. Double Eagle Coin from \$40 to \$20 (*Rule 12A-1.0371, F.A.C.*)
- Removes obsolete provisions which required dealers to maintain blanket resale and exemption certificates prior to the current requirement for dealers to use Annual Resale

Certificates to document sales for resale and other obsolete references (*Rules 12A-1.038 and 12A-1.039, F.A.C.*)

- Removes the requirement for churches, synagogues, and qualified sponsoring organizations to place their name and address on vending machines they operate (*Rule 12A-1.044, F.A.C.*)
- Removes obsolete provisions regarding the application of tax to agreements entered into prior to July 1, 1991, between a vending machine owner and the owner of the location where the machine is placed for operation (*Rule 12A-1.044, F.A.C.*)
- Removes obsolete provisions regarding interest (*Rule 12A-1.056, F.A.C.*)
- Removes provisions regarding the charge for filling 22-pound liquefied petroleum gas tanks that are obsolete (*Rule 12A-1.059, F.A.C.*)
- Provides that the administration of sales tax and any locally-imposed transient rental tax will be governed by a single administrative rule (*Rule 12A-1.061, F.A.C.*)
- Removes obsolete references and unnecessary effective dates (*Rule 12A-1.061, F.A.C.*)
- Removes the requirement for holders of direct pay permits to submit an annual report of the amount of total purchases by county (*Rule 12A-1.0911, F.A.C.*)
- Updates an exemption certificate issued to qualified production companies (*Rule 12A-1.097, F.A.C.*)

Communications Services Tax

- Removes obsolete provisions applicable to emergency local tax rate changes and to the adoption of emergency tax rate ordinances (*Rules 12A-19.050 and 12A-19.100, F.A.C.*)

Fee on the Sale or Lease of Motor Vehicles (Lemon Law Fee)

- Removes unnecessary provisions regarding the scope of the rules governing the administration of the fee on the sale or lease of motor vehicles (lemon law fee) (*Rule 12A-13.001, F.A.C.*)
- Provides that the term “motor vehicle” for purposes of the fee on the sale or lease of motor vehicles is defined in Section 681.102(14) F.S., and updates information on how to obtain fee returns from the Department (*Rule 12A-13.002, F.A.C.*)
- Provides when the fee is to be remitted by private tag agents (*Rule 12A-13.002, F.A.C.*)

Fuel Tax

- Removes reference to the incorporation of a refund permit (*Rules 12B-5.090 and 12B-5.100, F.A.C.*)
- Removes an obsolete refund permit application (*Rule 12B-5.150, F.A.C.*)
- Clarifies that it is unlawful to put alternative fuel into a vehicle that does not have the required fuel tax decal attached to the vehicle (*Rule 12B-5.200, F.A.C.*)

Severance Taxes

- Provides for the tax on the production of mature field recovery oil, imposed by Section 6, Chapter 2012-32, L.O.F. (*Rule 12B-7.004, F.A.C.*)

- Adopts updates and corrections to the tax returns used to report the tax on oil production and the taxes and surcharge on the severance of solid minerals, phosphate rock, or heavy minerals (*Rules 12B-7.008, and 12B-7.026, F.A.C.*)

Tax on Perchloroethylene

- Removes obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999 (*Rule 12B-12.007, F.A.C.*)

Tax on Governmental Leasehold Estates

- Repeals the adoption of obsolete intangible personal property tax forms (*Rule 12C-2.0115, F.A.C.*)
- Updates the application used to obtain a refund of the tax on government leasehold estates (*Rule 12C-2.012, F.A.C.*)

Administrative Rules

- Updates the delegation of authority to enter into consent agreements to reflect the reorganization of the General Tax Administration (*Rule 12-16.004, F.A.C.*)
- Updates the notice to customers that must be affixed to a vending machine by the operator of the machine (Section 6, Chapter 2010-138, L.O.F.) (*Rule 12-18.008, F.A.C.*)
- Updates the definition of “return” to reflect current statutory provisions (*Rule 12-22.002, F.A.C.*)
- Updates provisions regarding a taxpayer’s declaration of a representative and the power of attorney granted to the representative, removing provisions that are no longer necessary, and update provisions on how to obtain certain information from the Department (*Rule 12-22.005, F.A.C.*)
- Update forms used to enroll taxpayers in the Department’s e-Services Program to pay and file taxes, surtaxes, surcharges, and fees by electronic means (*Rule 12-24.011, F.A.C.*)
- Update reference to a statutory provision on recordkeeping (*Rule 12-24.028, F.A.C.*)

Were comments received from external parties? Yes. In response to comments received regarding Rule 12-22.055, F.A.C. (Disclosure Procedures), a Notice of Change was published in the Florida Administrative Register to clarify how governmental entities may request tax information from the Department.

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

**DEPARTMENT OF REVENUE
RULE AMENDMENTS - 2011 RULE REVIEW**

Program	Rule Number	Subject	Description of Proposed Rulemaking
Child Support Enforcement	12E-1.015	Child Support	Removes an outdated provision that conflicts with the Child Support Enforcement Title IV-D State Plan, identifies the foreign jurisdictions with which Florida has reciprocal agreements for child support enforcement services, and provides a hyperlink that the public can use to access a copy of the reciprocal agreements.
General Tax Administration	12A-1.014 12A-1.034 12A-1.064 12A-1.0641	Sales and Use Tax	Removes obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999.
General Tax Administration	12A-1.035	Sales and Use Tax	Updates reference to persons previously licensed or registered under Chapter 470 or 497, F.S., to those persons licensed under Chapter 497, F.S., for purposes of the exemption for funerals and the taxability of monuments (Chapter 2004-301, L.O.F.).
General Tax Administration	12A-1.0371	Sales and Use Tax	Corrects the value of a U.S. Double Eagle Coin from \$40 to \$20.
General Tax Administration	12A-1.038 12A-1.039	Sales and Use Tax	Removes obsolete provisions which required dealers to maintain blanket resale and exemption certificates prior to the current requirement for dealers to use Annual Resale Certificates to document sales for resale and other obsolete references.
General Tax Administration	12A-1.044	Sales and Use Tax	Removes the requirement for churches, synagogues, and qualified sponsoring organizations to place their name and address on vending machines they operate.
General Tax Administration	12A-1.044	Sales and Use Tax	Removes obsolete provisions regarding the application of tax to agreements entered into prior to July 1, 1991, between a vending machine owner and the owner of the location where the machine is placed for operation.
General Tax Administration	12A-1.056	Sales and Use Tax	Removes obsolete provisions regarding interest.
General Tax Administration	12A-1.059	Sales and Use Tax	Removes provisions regarding the charge for filling 22-pound liquefied petroleum gas tanks that are obsolete.
General Tax Administration	12A-1.061	Sales and Use Tax	Provides that the administration of sales tax and any locally-imposed transient rental tax will be governed by a single administrative rule.
General Tax Administration	12A-1.061	Sales and Use Tax	Removes obsolete references and unnecessary effective dates (<i>Rule 12A-1.061, F.A.C.</i>)
General Tax Administration	12A-1.0911	Sales and Use Tax	Removes the requirement for holders of direct pay permits to submit an annual report of the amount of total purchases by county (<i>Rule 12A-1.0911, F.A.C.</i>)
General Tax Administration	12A-1.097	Sales and Use Tax	Updates an exemption certificate issued to qualified production companies.
General Tax Administration	12A-19.050 12A-19.100	Communications Services Tax	Removes obsolete provisions applicable to emergency local tax rate changes and to the adoption of emergency tax rate ordinances.
General Tax Administration	12A-13.001	Fee on Sale or Lease of Motor Vehicles (Lemon Law Fee)	Removes unnecessary provisions regarding the scope of the rules governing the administration of the fee on the sale or lease of motor vehicles (lemon law fee).

**DEPARTMENT OF REVENUE
RULE AMENDMENTS - 2011 RULE REVIEW**

Program	Rule Number	Subject	Description of Proposed Rulemaking
General Tax Administration	12A-13.002	Fee on Sale or Lease of Motor Vehicles (Lemon Law Fee)	Provides that the term "motor vehicle" for purposes of the fee on the sale or lease of motor vehicles is defined in Section 681.102(14) F.S., and updates information on how to obtain fee returns from the Department.
General Tax Administration	12A-13.002	Fee on Sale or Lease of Motor Vehicles (Lemon Law Fee)	Provides when the fee is to be remitted by private tag agents.
General Tax Administration	12B-5.090 12B-5.100	Fuel Tax	Removes reference to the incorporation of a refund permit.
General Tax Administration	12B-5.150	Fuel Tax	Removes an obsolete refund permit application.
General Tax Administration	12B-5.200	Fuel Tax	Clarifies that it is unlawful to put alternative fuel into a vehicle that does not have the required fuel tax decal attached to the vehicle.
General Tax Administration	12B-7.004	Severance Tax	Provides for the tax on the production of mature field recovery oil, imposed by Section 6, Chapter 2012-32, L.O.F.
General Tax Administration	12B-7.008 12B-7.026	Severance Tax	Adopts updates and corrections to the tax returns used to report the tax on oil production and the taxes and surcharge on the severance of solid minerals, phosphate rock, or heavy minerals.
General Tax Administration	12B-12.007	Tax on Perchloroethylene	Removes obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999.
General Tax Administration	12C-2.0115	Tax on Governmental Leasehold Estates	Repeals the adoption of obsolete intangible personal property tax forms.
General Tax Administration	12C-2.012	Tax on Governmental Leasehold Estates	Updates the application used to obtain a refund of the tax on government leasehold estates.
General Tax Administration	12C-3.010	Estate Tax	Updates the statutory period for the exemption from the requirement to file a Florida Estate Tax Return (Section 1, Chapter 2011-86, L.O.F.)
General Tax Administration	12-18.008	Administrative	Updates the notice to customers that must be affixed to a vending machine by the operator of the machine (Section 6, Chapter 2010-138, L.O.F.)
General Tax Administration	12-22.002	Administrative	Updates the definition of "return" to reflect current statutory provisions.
General Tax Administration	12-22.005	Administrative	Updates provisions regarding a taxpayer's declaration of a representative and the power of attorney granted to the representative, removing provisions that are no longer necessary, and update provisions on how to obtain certain information from the Department.
General Tax Administration	12-24.011	Administrative	Update forms used to enroll taxpayers in the Department's e-Services Program to pay and file taxes, surtaxes, surcharges, and fees by electronic means.
General Tax Administration	12-24.028	Administrative	Update reference to a statutory provision on recordkeeping.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM OFFICE
AMENDING RULE 12E-1.015

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests): (1) remove a provision that is inconsistent with the Child Support Enforcement Title IV-D State plan and is no longer needed; (2) list the foreign jurisdictions with which Florida has reciprocal agreements for support enforcement; and (3) make available copies of the reciprocal agreements to the public.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests), are necessary to: (1) remove a provision that is inconsistent with the Child Support Enforcement Title IV-D State plan and is no longer needed; and (2) update the foreign jurisdictions with which Florida has reciprocal agreements for child support enforcement. When in effect, the proposed amendments will make available those reciprocal agreements for child support enforcement services to the public.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2913 - 2914), to advise the public of the proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on

January 7, 2013 (Vol. 39, No. 4, pp. 99 - 102), to advise the public of the proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF NOTICE OF CHANGE

FEBRUARY 15, 2013

The Department received comments about the proposed amendments to Rule 12E-1.015, F.A.C. (Reciprocity Requests), from the Joint Administrative Procedures Committee in a letter dated February 6, 2013. A Notice of Change was published in the Florida Administrative Register on February 15, 2013 (Vol. 39, No. 32, pp. 845 - 846), to address the Committee's comments. The proposed amendments were changed to include the effective date of, and a hyperlink to, each declaration of reciprocity being incorporated by reference in the rule. The rule was also changed to reflect that there is one declaration of reciprocity for the United Kingdom of Great Britain and Northern Ireland, instead of four separate declarations for England, Scotland, Wales, and Northern Ireland.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM OFFICE
AMENDING RULE 12E-1.015

12E-1.015 Reciprocity Requests.

~~(1) The Florida Department of Revenue, Child Support Enforcement Program Office shall locate noncustodial parents and institute legal proceedings against them to establish paternity and support obligations, enforce support obligations, modify existing orders, collect support, and disburse support payments on behalf of custodial parents and custodians in foreign countries where there is a declaration of reciprocity between Florida and the requesting foreign country. Foreign countries requesting a support action in Florida must provide the following documents:~~

~~(a) Certified copies of any pleading, petition, affidavit, testimony, order and modification to be established, enforced or modified; and,~~

~~(b) A certificate of the arrearage, if any; and any other information relating to the case file.~~

~~(1)(2) Declarations of reciprocity, issued by the Florida Attorney General, and the United States are hereby incorporated by reference as of the effective date of this rule.~~

~~(2) Declarations of reciprocity, have been established with a number of countries:~~

~~(a) Australia (effective _____)~~

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

(b) Austria (effective _____)

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

(c) Bermuda (effective _____)

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

(d) Canada:

1. Province of Alberta (effective _____)

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

2. Province of British Columbia (effective _____)

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

3. Province of Manitoba (effective _____)

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

4. Province of New Brunswick (effective _____)

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

5. Province of New Foundland/Labrador (effective _____)

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

6. Province of Northwest Territories (effective _____)

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

7. Province of Nova Scotia (effective _____)

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

8. Province of Nunavut (effective _____)

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

9. Province of Ontario (effective _____)

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

10. Province of Saskatchewan (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
11. Province of Yukon Territory (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
12. Province of Prince Edward Island (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
13. Province of Quebec (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (e) Czech Republic (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (f) El Salvador (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (g) Finland (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (h) Fiji (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (i) France (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (j) Germany (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (k) Hungary (effective _____)
(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)
- (l) Ireland (effective _____)

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

(m) Israel (effective _____)

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

(n) Jamaica (effective _____)

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

(o) Netherlands (effective _____)

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

(p) Norway (effective _____)

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

(q) Poland (effective _____)

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

(r) Portugal (effective _____)

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

(s) Slovak Republic (effective _____)

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

(t) South Africa (effective _____)

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

(u) Sweden (effective _____)

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

(v) Switzerland (effective _____)

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

(w) United Kingdom of Great Britain and Northern Ireland (effective _____).

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

~~A copy of a specific declaration of reciprocity may be obtained from:~~

~~Reciprocity Coordinator, Central Registry, Child Support Enforcement Program Office~~

~~Department of Revenue~~

~~1170 Capital Circle, N. E.~~

~~Tallahassee, Florida 32301~~

Rulemaking Specific Authority 409.2557(3) 409.026 FS. Law Implemented 88.1011(19)(b)

88.0405, 88.171 FS. History–New 6-17-92, Amended 7-20-94, Formerly 10C-25.012,

Amended _____.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE

SALES AND USE TAX

AMENDING RULES 12A-1.014, 12A-1.034, 12A-1.035, 12A-1.0371,
12A-1.038, 12A-1.039, 12A-1.044, 12A-1.056, 12A-1.059, 12A-1.061,
12A-1.064, 12A-1.0641, 12A-1.0911, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.014, F.A.C. (Refunds and Credits for Sales Tax Erroneously Paid), Rule 12A-1.034, F.A.C. (Promotional Materials Exported from this State), Rule 12A-1.064, F.A.C. (Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate and Foreign Commerce), and Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), remove obsolete provisions regarding when an application for refund must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999.

The proposed amendments to Rule 12A-1.035, F.A.C. (Funerals; Related Merchandise and Services), replace reference to persons previously licensed or registered under Chapter 470 or 497, F.S., to those persons licensed under Chapter 497, F.S.

The proposed amendments to Rule 12A-1.0371 (Sales of Coins, Currency, or Bullion), correct the referenced value of a U.S. Double Eagle Coin.

The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), and Rule 12A-1.039, F.A.C. (Sales for Resale), remove

obsolete provisions which required dealers to maintain blanket resale and exemption certificates and obsolete references to other suggested exemption certificates.

The proposed amendments to Rule 12A-1.044, F.A.C. (Vending Machines): (1) remove the requirement for churches, synagogues, and qualified sponsoring organizations to place their name and address on vending machines they operate; and (2) remove obsolete provisions regarding the application of tax to agreements between a vending machine owner and the owner of the location where the machine is placed for operation entered into prior to July 1, 1991.

The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), remove provisions regarding the imposition of interest on tax due prior to January 1, 2000.

The proposed amendments to Rule 12A-1.059, F.A.C. (Fuels): (1) remove provisions regarding the filling of 22-pound liquefied petroleum gas tanks that are no longer available; and (2) provide that the charge for filling liquefied petroleum gas tanks with gas to be used for purposes of residential heating, cooking, lighting, or refrigeration is tax-exempt when the selling dealer documents the tax-exempt use of the gas on the customer's invoice or other written evidence of sale.

The proposed amendments to Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations): (1) provide that the rule governs the administration of sales tax and any locally-imposed discretionary sales surtax, convention development tax, tourist development tax, or tourist impact tax imposed on transient accommodations; and (2) remove obsolete references and unnecessary effective dates.

The proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors), remove the requirement for holders of

direct pay permits to submit an annual report of the amount of total purchases by county.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, updates to Form DR-231, Certificate of Exemption for Entertainment Industry Qualified Production Company, to remove obsolete taxpayer contact information and to correctly title the Florida Office of Film and Entertainment.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), are necessary to: (1) remove obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999; (2) reflect the transfer of the licensing of funeral directors from persons licensed under Chapter 470, F.S. (Funeral Directing, Embalming, and Direct Disposition), to persons licensed under Part III, Chapter 497, F.S., (Funeral Directing, Embalming, and Related Services), to reflect the provisions of Chapter 2004-301, L.O.F., which amended and renumbered Chapter 470, F.S., to Part III, Chapter 497, F.S.; (3) correct the value of a U.S. Double Eagle Coin from \$40 to \$20; (4) remove obsolete provisions that required dealers to maintain blanket resale and exemption certificates; (5) remove the requirement for churches, synagogues, and qualified sponsoring organizations to place their name and address on vending machines they operate to reflect Section 212.0515(3), F.S., as amended by Section 6, Chapter 2010-138, L.O.F.; (6) remove obsolete provisions regarding the application of tax to agreements between a vending machine owner and the owner of the location where the machine is placed for operation entered into prior to July 1, 1991; (7) remove obsolete provisions regarding the imposition of interest; (8) repeal provisions regarding the charge for filling 22-pound liquefied petroleum gas tanks that are obsolete; (9) provide in the Department's rule

regarding sales tax imposed on transient accommodations any locally-imposed convention development tax, tourist development tax, or tourist impact tax on transient accommodations, and remove obsolete references and unnecessary effective dates; (10) remove the requirement for holders of direct pay permits to submit an annual report of the amount of total purchases by county; and (11) adopt, by reference, updates to the Certificate of Exemption for Entertainment Industry Qualified Production Company.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2896 - 2898, and p. 2900), 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 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the

proposed amendments 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 November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 77 - 83), 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, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

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

AMENDING RULES 12A-1.014, 12A-1.034, 12A-1.035, 12A-1.0371,
12A-1.038, 12A-1.039, 12A-1.044, 12A-1.056, 12A-1.059, 12A-1.061,
12A-1.064, 12A-1.0641, 12A-1.0911, AND 12A-1.097

12A-1.014 Refunds and Credits for Sales Tax Erroneously Paid.

(1) through (4) No change.

(5)(a) Any dealer entitled to a refund of tax paid to the Department of Revenue may seek a refund by filing an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department within 3 years after the date the tax was paid. Form DR-26S must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

~~1. Form DR-26S, Application for Refund Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~2. Form DR-26S, Application for Refund Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

(b) No change.

(6) No change.

Cross Reference – Rules 12A-1.007, 12A-1.034, and 12A-1.096, F.A.C., and Rule Chapter 12-

26, F.A.C.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1), 213.255(11) FS. Law Implemented 95.091, 212.12(6), 212.17(1), 213.255(1), (2), (3), 213.35, 213.255(1), (2), (3), 215.26(2) FS.

History—Revised 10-7-68, Amended 1-17-71, Revised 6-16-72, Amended 10-21-75, 9-28-78, 11-15-82, 10-13-83, Formerly 12A-1.14, Amended 6-10-87, 1-2-89, 8-10-92, 3-17-93, 1-3-96, 3-20-96, 6-19-01, 4-17-03,_____.

12A-1.034 Promotional Materials Exported from this State.

(1) through (5) No change.

(6)(a) To receive a refund of tax paid to the Department for promotional materials, the dealer must file an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department within 3 years after the date the tax was paid. Form DR-26S must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved; before the date the promotional materials are exported from this state.

~~1. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~2. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

(b) through (c) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091, 212.02(4), (14), (16), (20), 212.06(11), 212.183(6), 213.255(1), (2), (3), 215.26(2) FS. History—Revised 10-

7-68, 6-16-72, Formerly 12A-1.34, Amended 5-19-93, 11-16-93, 6-19-01, 4-17-03,_____.

12A-1.035 Funerals; Related Merchandise and Services.

(1) No change.

(2)(a)1. The following at-need sales to consumers by any person licensed ~~or registered~~ under the provisions of Chapter ~~470 or~~ 497, F.S., are not subject to tax:

a. The sale of funeral or burial services;

b. The sale of funeral or burial merchandise sold in conjunction with the sale of a funeral or burial service; and

c. The sale of funeral or burial merchandise that is installed at the consumer's designated location.

2. The sale of funeral or burial merchandise is presumed to be made in conjunction with the sale of funeral or burial services when the seller of the merchandise is required to deliver the merchandise to any person licensed to provide funeral or burial services.

3. The purchase of funeral or burial merchandise by any person licensed ~~or registered~~ under the provisions of Chapter ~~470 or~~ 497, F.S., for use in providing funeral or burial services or for installation at the consumer's designated location is subject to tax at the time of purchase.

(b) Charges to a consumer for funeral or burial merchandise sold under the provisions of a pre-need contract authorized by Chapter 497, F.S., are not subject to tax. When merchandise is purchased by any person licensed under ~~Chapter 470, F.S., or by a holder of a Certificate of Authority issued pursuant to~~ Chapter 497, F.S., to be provided at the time of death of the individual for whom the contract was purchased, tax is due at the time of purchase.

(3) through (5) No change.

(6) An Annual Resale Certificate (Form DR-13) may be extended to the selling dealer to purchase funeral or burial merchandise tax exempt for the purposes of resale when:

(a) The applicable tax is collected from the consumer at the time of sale;

(b) The merchandise is not purchased for use by any person licensed under Chapter ~~470~~ ~~or~~ 497, F.S., to provide funeral or burial services to a consumer; and

(c) The merchandise is not installed at the consumer's designated location.

(7) through (8) No change.

Rulemaking Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a), (c), 212.06(1), 212.08(2), (7)(v) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.35, Amended 6-19-01,_____.

12A-1.0371 Sales of Coins, Currency, or Bullion.

(1) through (2) No change.

(3)(a)1. The sale of coins or currency, in a single transaction, is exempt when the sales price charged for coins or currency that are not legal tender of the United States or legal tender of another country sold at its face value exceeds \$500.

2. Example: In one transaction, an investor purchases one United States ~~\$20~~ \$40 coin, called a gold double eagle, for \$295, one Krugerrand for \$295, and one one-ounce gold ingot for \$295. Because the gold double eagle is United States legal tender, its sale is not subject to tax. The sale of the gold ingot is not a taxable sale of coins or currency, but is a taxable sale of bullion. The sale of the Krugerrand is a taxable sale of coins or currency. Because the portion of the sales price charged for taxable coins or currency is \$295, the transaction does not qualify for exemption and the sale of the Krugerrand and the ingot is taxable.

(b) through (c) No change.

(4) through (6) No change.

Rulemaking Authority 212.05(1)(j), 212.08(7)(ww), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(19), 212.05(1)(j), 212.08(7)(ww) FS. History—New 3-17-93, Amended 10-17-94, 6-28-00,_____.

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

(1) through (5) No change.

(5) SALES EXEMPT BASED ON THE USE OF THE PROPERTY OR SERVICES.

(a) through (c) No change.

(d)1. No change.

2. As provided in subparagraph (a)2. of this subsection, there are other suggested formats for exemption certificates based on the use of the property or services that are provided in other sections of Rule Chapter 12A-1, F.A.C., and in Taxpayer Information Publications (TIPs) issued by the Department. The following is a list of these suggested formats of exemption and the applicable rule section or TIP number that suggests the exemption certificate format. This list is not intended to be an exhaustive list:

a. through e. No change.

~~f. Lease or License of Real Property Upon Which Certain Antennas, Equipment, and Structures are Placed. See Rule 12A-1.070, F.A.C.~~

g. through m. Renumbered f. through l. No change.

~~n. Solar Energy Systems and Components. See TIP 05A01-5, dated September 20, 2000.~~

(6) RECORDS REQUIRED. Selling dealers must maintain ~~blanket resale and exemption~~

~~certificates based on the Department's suggested format provided in Rule 12A-1.039, F.A.C., effective 12-13-94, as well as exemption affidavits, exemption certificates, copies of Consumer's Certificates of Exemption, Transaction Authorization Numbers, Vendor Authorization Numbers, and other documentation required under the provisions of this rule, other rule sections of Rule Chapter 12A-1, F.A.C., or suggested in Taxpayer Information Publications, until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Electronic storage by the selling dealer of the required affidavits, certificates, or other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.~~

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

12A-1.039 Sales for Resale.

(1) through (5) No change.

(6) RECORDS REQUIRED. ~~Resale certificates created and issued by purchasers that were based on the Department's suggested format provided in Rule 12A-1.039, F.A.C., effective 12-13-94, are valid only for the purpose of documenting sales for resale made prior to February 1, 2000.~~ The selling dealer must also maintain copies of receipts, invoices, billing statements, or other tangible evidence of sales, copies of Annual Resale Certificates and other certificates, and Vendor Resale Authorization and Transaction Authorization Numbers until tax imposed by

Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Electronic storage by the selling dealer of the copy of the Annual Resale Certificate or other required documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

(7) through (8) No change.

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

12A-1.044 Vending Machines.

(1) No change.

(2) All sales made through vending machines of food, beverages, or other items are taxed in the manner provided in Section 212.0515(2), F.S., except as provided in paragraphs (a) and (b) ~~(e)~~. See subsection (2) of Rule 12A-15.011, F.A.C., for the effective tax rates for sales made through vending machines in counties imposing a discretionary sales surtax.

(a) Receipts from vending machines owned and operated by churches or synagogues are exempt. Such entities are not required to post a notice as required in subsection (4). ~~However, the name and address of the church or synagogue should be affixed to such machines.~~

(b) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit corporation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended, are exempt. The nonprofit corporation is not

~~required to post a notice as required in subsection (4). The name and address of the qualified sponsoring organization must be affixed to each machine used for this exempt purpose.~~

(c) No change.

(3) through (4) No change.

(5) Purchases or leases of vending machines.

(a) through (c) No change.

~~(d) Agreements entered into prior to July 1, 1991, between the owner of vending machines and the location owner, for the lease or license to use the vending machines, will be recognized by the Department as a lease or license to use the machines purchased prior to July 1, 1991, until the expiration date of the original lease agreement. However, oral agreements entered into prior to July 1, 1991, shall be deemed to have expired prior to July 1, 1992, by virtue of the provisions of Sections 689.01 and 725.01, F.S. On the expiration date of the lease agreement entered into prior to July 1, 1991, for machines purchased prior to this date, the lease or license to use vending machines to an operator as described in paragraph (c) above is taxable.~~

(6) Lease or license to use real property; direct pay authority.

(a) through (c) No change.

~~(d) Agreements entered into prior to July 1, 1991, between the owner of vending machines and the location owner, for the lease or license to use real property where the machines are to be located, will be recognized by the Department until the expiration date of the original lease agreement. However, oral agreements entered into prior to July 1, 1991, shall be deemed to have expired prior to July 1, 1992, by virtue of the provisions of Sections 689.01 and 725.01, F.S. On the expiration date of the lease agreement entered into prior to July 1, 1991, the lease or license to use the real property where the machines are located, is taxable when the machine~~

~~owner is also the operator as described in paragraph (a) above.~~

(7) through (8) No change.

Rulemaking Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), (14), (15), (16), (19), (24), 212.031, 212.05(1)(h), 212.0515, 212.054(1), (2), (3)(l), 212.055, 212.07(1), (2), 212.08(1), (7), (8), 212.11(1), 212.12(2), (3), (4), (9), 212.18(2), (3) FS. History—Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, 6-19-01, 11-1-05, 1-12-11, ____.

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1) through (3) No change.

(4) PENALTIES AND INTEREST.

(a) through (f) No change.

(g) Interest shall accrue on any delinquent tax, surtax, surcharge, or fee imposed by or administered under Chapter 212, F.S., at the ~~following rate:~~

~~1. One percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.~~

~~2. For payments due on or after January 1, 2000, the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C.; (prorated daily).~~

~~3. Interest accrues on the amount due from the date of delinquency until the date on which the tax is paid.~~

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4),

212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5),
212.14(2), 212.15(1), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185, 681.117
FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78,
10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-
86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-
28-04, 11-6-07, 9-15-08,_____.

12A-1.059 Fuels.

(1)(a) No change.

(b) The charge for the filling of liquefied petroleum (L.P.) ~~twenty-two pound~~ gas tanks, including tanks used in recreational vehicles, is exempt when the L.P. gas will be used by the purchaser for the purposes of residential heating, cooking, lighting, or refrigeration. The dealer must document on the customer's invoice or other written evidence of sale that the charge is for filling a L.P. twenty-two pound tank ~~with, or that the~~ gas is sold for the purposes of residential household cooking, heating, lighting, or refrigeration.

(2) through (5) No change.

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,_____.

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) The provisions of this rule govern the administration of the taxes imposed on transient accommodations including sales tax imposed under Section 212.03, F.S., any locally-imposed discretionary sales surtax, any convention development tax imposed under Section 212.0305, F.S., any tourist development tax imposed under Section 125.0104, F.S., or any tourist impact tax imposed under Section 125.0108, F.S.

(2)~~(4)~~ No change.

(3)~~(2)~~ DEFINITIONS. For the purposes of this rule, the following terms are defined:

(a) “Bedding” means a mattress, box spring, bed frame, pillows and bed linens, as well as sleeper type couches, futons, and day beds. “Bedding” ~~Effective January 1, 1998, “bedding”~~ also includes roll-a-way beds, baby cribs, and portable baby cribs. This list is not intended to be an exhaustive list.

(b) through (f) No change.

(4)~~(3)~~ RENTAL CHARGES OR ROOM RATES.

(a) through (g) No change.

(h) The following is a non-inclusive list of charges separately itemized on a guest’s or tenant’s bill, invoice, or other tangible evidence of sale that are NOT rental charges or room rates for transient accommodations:

1. through 3. No change.

4. Charges for the use of safes or safety deposit boxes located at an establishment’s registration desk. ~~See Rule 12A-1.070, F.A.C.~~

5. through 8. No change.

9. Valet service charged to a guest’s or tenant’s accommodation bill. ~~See Rule 12A-1.070,~~

~~F.A.C.~~

10. through 14. No change.

(4) through (20) Renumbered (5) through (21) No change.

Rulemaking Authority 125.0104(3)(k), 125.0108(2)(e), 212.0305(3)(f), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 119.071(5), 212.02(2), (10)(a)-(g), (16), 212.03(1), (2), (3), (4), (5), (7), 212.031, 212.054(3)(h), 212.055, 212.08(6), (7)(i), (m), 212.11(1), (2), 212.12(7), (9), (12), 212.13(2), 212.18(2), (3), 213.37, 213.756 FS. History— Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99, 3-4-01(4), 3-4-01(2), (5), (14), 10-2-01, 8-1-02, 9-1-09, 6-28-10, 7-20-11, _____.

12A-1.064 Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate and Foreign Commerce.

(1) through (6) No change.

(7) REFUNDS TO CLAIM THE PARTIAL EXEMPTION.

(a) Licensed common carriers and licensed railroad carriers who do not hold a valid Sales and Use Tax Direct Pay Permit are required to pay tax to the selling dealer at the time of purchase or lease. Carriers entitled to the partial exemption provided in Section 212.08(9), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Any licensed common carrier or licensed railroad carrier seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. No change.

2. File with the Department an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including the required statement, that meets the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., within 3 years after the date the tax was paid.

~~a. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~b. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

(c) No change.

(8) through (9) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.06(1), 212.08(4)(a), (9), 212.085, 212.13(1), 212.21(3), 213.255(1), (2), (3), 215.26(2) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, 6-19-01, 10-2-01, 6-12-03,_____.

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

(1) through (6) No change.

(7) REFUNDS TO CLAIM THE PARTIAL EXEMPTION.

(a) Persons who are entitled to the partial exemption provided in Section 212.08(4)(a)2.

or 212.08(8), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Persons seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. through 3. No change.

4. File with the Department an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including any required statement or affidavit, that meets the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., within 3 years after the date the tax was paid.

~~a. Form DR-26S, Application for Refund Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~b. Form DR-26S, Application for Refund Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

(c) through (f) No change.

(8) through (9) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.06(1), 212.08(4)(a), (8), 212.085, 212.13(1), 212.21(3), 213.255(1), (2), (3), 215.26(2) FS. History—New 6-12-03, _____.

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors.

(1) No change.

(2) SELF-ACCRUAL AUTHORIZATION.

(a) through (f) No change.

~~(g) All dealers who hold a valid Sales and Use Tax Direct Pay Permit are required to file with the Department, by September 30 of each year, a report showing the amount of total purchases by county for the period from September 1 through August 31 and the amount of use tax self-accrued on such purchases by county. This report should be mailed to:~~

~~Florida Department of Revenue~~

~~Central Registration~~

~~P. O. Box 6480~~

~~Tallahassee, Florida 32314-6480.~~

(h) through (i) Renumbered (g) through (h) No change.

(3) No change.

Rulemaking Authority 212.17(6), 212.18(2), (3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3., 4., 212.0598, 212.06(11), 212.08(4)(a)2., (8), (9), 212.12(13), 212.18(3), 212.183 FS. History—New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-2-01, 6-12-03, 9-1-09,_____.

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) No change.

(b) Forms (certifications) specifically denoted by an asterisk (*) are issued by the

Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Florida Department of Revenue

Taxpayer Services

5050 West Tennessee Street

Tallahassee, Florida 32399-0112.

Form Number	Title	Effective Date
(2) through (19)	No change.	
(20) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (R. 06/12 N. 08/09)	___ 04/10

(21) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 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), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-

03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09,
9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-13, FLORIDA ADMINISTRATIVE CODE
FEE ON THE SALE OR LEASE OF MOTOR VEHICLES
AMENDING RULE 12A-13.002
REPEALING RULE 12A-13.001

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-13.001, F.A.C. (Scope of Rules): (1) removes the provisions of subsection (1) that are redundant of the provisions of subsection (2) of Rule 12A-13.002, F.A.C.; and (2) moves provisions regarding the definition of “motor vehicle” to Rule 12A-13.002, F.A.C., governing the collection and remittance of the fee on the sale or lease of motor vehicles imposed under Section 681.117, F.S.

The proposed amendments to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee): (1) provide that the term “motor vehicle” for purposes of the fee on the sale or lease of motor vehicles is defined in Section 681.102(14) F.S.; (2) clarify when private tag agencies are to remit the fee to the Department; and (3) update information on how to obtain copies of the fee return from the Department.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed updates to Rule Chapter 12A-13, F.A.C. (Fee on the Sale or Lease of Motor Vehicles), are necessary to remove redundant provisions and to update information on how to obtain copies of the fee return from 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2903), to advise the public of the proposed changes to Rule Chapter 12A-13, F.A.C. (Fee on the Sale or Lease of Motor Vehicles), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule Chapter 12A-13, F.A.C. (Fee on the Sale or Lease of Motor Vehicles). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on

January 7, 2013 (Vol. 39, No. 4, pp. 89 - 90), to advise the public of the proposed changes to Rule Chapter 12A-13, F.A.C. (Fee on the Sale or Lease of Motor Vehicles), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-13, FLORIDA ADMINISTRATIVE CODE
FEE ON THE SALE OR LEASE OF MOTOR VEHICLES
AMENDING RULE 12A-13.002
REPEALING RULE 12A-13.001

12A-13.001 Scope of Rules.

~~(1) These rules govern the remittance of the two dollar (\$2.00) fee which is to be collected by each motor vehicle dealer and by each person engaged in the business of leasing motor vehicles, from the consumer, including business entities, at the consummation of the sale of a motor vehicle, or at the time a lease agreement for a motor vehicle is entered into pursuant to the provisions of Section 681.117, F.S.~~

~~(2) For purposes of this rule chapter, the term “motor vehicle” shall have the same meaning as that term is defined in Section 681.102(15), F.S.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 681.102(14)(15), 681.117 FS. History—
New 4-5-89, Amended 5-4-03, Repealed.

12A-13.002 Collection and Remittance of Fee.

(1) Each motor vehicle dealer licensed under Section 320.27, F.S., and each person engaged in the business of leasing motor vehicles, is required to collect a \$2 fee from the consumer at the consummation of the sale of a motor vehicle or at the time of entry into a lease agreement for a motor vehicle. The term “motor vehicle” means those motor vehicles as defined

in Section 681.102(14), F.S.

(2) All fees collected for motor vehicles that are titled and registered in this state must be remitted to the county tax collector or private tag agency ~~acting as agent for the Department of Revenue.~~

(a) Each county tax collector is required to file a Motor Vehicle Warranty Remittance Fee Report (Form form DR-35) and remit such fees to the Department at or within the time or times prescribed in Section 219.07, F.S.

(b) Each private tag agent is required to file a Motor Vehicle Warranty Remittance Fee Report (Form form DR-35) and remit such fees to the Department at or within the times the private tag agent's sales and use tax and return is due not later than seven (7) working days from the close of the week in which the private tag agency received the fees. See Rule 12A-1.056, F.A.C.

(3) through (4) No change.

Rulemaking Authority 213.06(1) FS. Law Implemented 219.07, 320.27(1)(c), 681.102(14)(15), 681.117 FS. History—New 4-5-89, Amended 5-4-03, 9-28-04, 1-11-10, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULES 12A-19.050 AND 12A-19.100

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-19.050, F.A.C. (Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections), and to Form DR-700021 (Local Communications Services Tax Notification of Tax Rate Change), adopted by reference, in Rule 12A-19.100, F.A.C. (Public Use Forms): (1) clarify provisions applicable to emergency local tax rate changes; and (2) remove obsolete rate change provisions for the adoption of emergency tax rate ordinances for 2002.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-19.050, F.A.C. (Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections) and Rule 12A-19.100, F.A.C. (Public Use Forms) are necessary to: (1) clarify provisions regarding when a local jurisdiction may increase the local tax rate by emergency ordinance; and (2) remove obsolete provisions regarding emergency local tax rates in 2002.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2905), to advise the public of the proposed changes to Rule 12A-19.050, F.A.C. (Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections) 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 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule 12A-19.050, F.A.C. (Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections) 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 November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 90 - 92), to advise the public of the proposed changes to Rule 12A-19.050, F.A.C. (Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections) and Rule 12A-19.100, F.A.C. (Public Use Forms), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. 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-19.050 AND 12A-19.100

12A-19.050 Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections.

(1) No change.

(2) Permit Fee Elections.

~~(a) Each municipality, charter county, or noncharter county was required to elect prior to October 1, 2001 to either collect permit fees or to not collect permit fees. The initial local communications services tax rate established for each local taxing jurisdiction depended upon that election. Local taxing jurisdictions that elected not to collect permit fees were also permitted to adopt resolutions or ordinances increasing their initial local communications services tax rate by .12 percent in the case of municipalities and charter counties and .24 percent in the case of noncharter counties. Local taxing jurisdictions are permitted to change their elections as in effect on October 1, 2001, but no change in election as to permit fees will be effective prior to January 1, 2003.~~

~~(b) If any local taxing jurisdiction that initially elected to not collect permit fees subsequently elects to collect permit fees, in addition to the effective date and notification procedures set forth in subsection (1), the following special rules apply:~~

~~(a)1. If a municipality or charter county changes its election and exercises its authority to~~

collect permit fees, the rate of the local communications services tax imposed by the jurisdiction will automatically be reduced by the sum of .12 percent plus the percentage increase in the local communications services tax, if any, ~~pursuant to a permit fee election under Section 337.401(3)(c)1.b., F.S.~~

~~(b)2.~~ If a noncharter county changes its election and exercises its authority to collect permit fees, the rate of the local communications services tax imposed by the jurisdiction will automatically be reduced by the rate increase in the local communications services tax, if any, ~~pursuant to a permit fee election under Section 337.401(3)(c)2.b., F.S.~~

~~(c)3.~~ Any county or municipality that changes its election and exercises its authority to collect permit fees must provide written notification to all dealers of communications services in the jurisdiction by the September 1 immediately preceding the January 1 effective date of the change of election.

~~(d)(e)~~ If any local taxing jurisdiction that initially elected to collect permit fees subsequently elects to not collect permit fees, the rate of the local communications services tax imposed by the jurisdiction may be increased by ordinance or resolution by up to .24 percent.

(3) Emergency Local Rate Changes.

(a) ~~Any~~ For the period October 1, 2001, through September 30, 2002, any local taxing jurisdiction may adjust ~~increase~~ its local communications services tax rate by emergency ordinance or resolution as provided in ~~pursuant to~~ Section 202.20(2)(a)3., F.S. ~~A local taxing jurisdiction may be required to decrease its local communications services tax rate by emergency ordinance or resolution pursuant to Section 202.20(2)(a)4., F.S. Emergency rate changes cannot take effect for taxable services included on bills that are dated on or after~~ sooner than the first day of the first month beginning at least 60 days after adoption of the rate change.

(b) A local taxing jurisdiction must notify the Department, using Form DR-700021, Local Communications Services Tax Notification of Tax Rate Change (incorporated by reference in Rule 12A-19.100, F.A.C.), immediately upon adoption of an emergency rate change, but not less than 60 days prior to its effective date. The Department will provide written notice of the emergency rate adoption to affected dealers within 30 days after receipt of notification from the local taxing jurisdiction.

(c) No change.

~~(d) Example: A local taxing jurisdiction adopts an emergency rate ordinance on February 20, 2002. The earliest permissible effective date for the new rate is May 1, 2002 (the first day of the first month beginning 60 days after the date of adoption). Notification and a copy of the ordinance must be provided to the Department no later than March 2, 2002 (60 days prior to the effective date for the new rate). If the Department receives the notice on February 25, 2002, the Department must notify dealers no later than March 27, 2002 (30 days after receiving the notice from the local taxing jurisdiction).~~

(4) No change.

Rulemaking Authority ~~202.21~~, 202.28(1)(b)2. FS. Law Implemented 202.20(2)(a), 202.21, 337.401(3)(c), (j) FS. History—New 1-31-02, Amended 4-17-03,_____.

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.

Form Number	Title	Effective Date
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(2) through (6) No change.

(7) DR-700021	Local Communications Services Tax Notification of Tax Rate Change (R. <u>06/12</u> 12/01)	___ 04/03
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(8) through (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, ____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,
AVIATION FUELS, AND POLLUTANTS
AMENDING RULES 12B-5.090, 12B-5.100, 12B-5.150, AND 12B-5.200

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-5.090, F.A.C. (Local Government Users), and Rule 12B-5.100, F.A.C. (Mass Transit Systems), remove reference to the incorporation of a refund permit that does not meet the definition of a “rule” and is not incorporated by reference.

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), remove Form DR-179 (Corporate Surety Bond Form for Refund Permit Application), which is no longer used by the Department.

The amendments to Rule 12B-5.200, F.A.C. (Retailers of Alternative Fuel), clarify that it is unlawful to put alternative fuel into a vehicle that does not have the decal required by Section 206.877, F.S., attached to the vehicle.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), are necessary to: (1) remove the incorrect reference to the incorporation of a form; (2) remove an obsolete form; and (3) provide clarification of the decal requirements for placing alternative fuel into a vehicle.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2907), to advise the public of the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 92 - 93), to advise the public of the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. 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

AMENDING RULES 12B-5.090, 12B-5.100, 12B-5.150, AND 12B-5.200

PART I TAX ON MOTOR AND DIESEL FUEL

12B-5.090 Local Government Users.

(1) through (3) No change.

(4) REFUNDS AND CREDITS.

(a) No change.

(b)1. Any county, municipality, or school district, which is not licensed as a local government user, that uses tax-paid diesel fuel, gasoline, or gasohol in vehicles operated on the highways, may seek a refund each calendar quarter for the fuel taxes imposed under Section 206.41(1)(b) and (g), F.S., for gasoline and gasohol, 1 cent of the tax imposed under Section 206.87(1)(a), F.S., and all of the tax imposed under Section 206.87(1)(e), F.S., on diesel fuel.

2. Prior to qualifying for a refund of taxes paid, counties, municipalities, or school districts and nonpublic schools are required to file an Application for Fuel Tax Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) and obtain a Fuel Tax Refund Permit (~~Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.~~) issued by the Department.

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 206.41(4), 206.86(11), 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-5.100 Mass Transit Systems.

(1) through (3) No change.

(4) REFUNDS AND CREDITS.

(a) No change.

(b)1. Prior to qualifying for a refund of taxes paid, a Mass Transit System is required to file an Application for Fuel Tax Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) and obtain a Fuel Tax Refund Permit (~~Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.~~) issued by the Department to obtain such refunds.

2. No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.41(4), 206.86(12), 206.874(5)(a), 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-5.150 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) through (12) No change.

(14) through (41) Renumbered (13) through (40) 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, 206.43, 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, 01-25-12,_____.

PART II TAX ON ALTERNATIVE FUEL

12B-5.200 Retailers of Alternative Fuel.

(1) through (3) No change.

(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) No change.

(5) No change.

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,_____.

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

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-7.004, F.A.C. (Rate of Tax; Oil, Gas and Sulfur), provide for the reporting of the tax on the production mature field recovery oil, imposed by Section 211.02, F.S., as amended by Section 6, Chapter 2012-32, L.O.F.

The proposed amendments to Rule 12B-7.008, F.A.C. and Rule 12B-7.026, F.A.C. (Public Use Forms), adopt changes to tax returns used in the administration of the tax on oil production in Florida.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges), are necessary to: (1) provide for the reporting of the tax on the production mature field recovery oil, imposed by Section 211.02, F.S., as amended by Section 6, Chapter 2012-32, L.O.F.; and (2) adopt, by reference, updates and corrections to forms used in the administration of the severance taxes, fees, and surcharges.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2907 - 2908), to advise the public of the proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on

January 7, 2013 (Vol. 39, No. 4, pp. 94 - 95), to advise the public of the proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

In response to written comments received from the Joint Administrative Procedures Committee, subparagraph 4. of paragraph (c) of subsection (1) of Rule 12B-7.004, F.A.C., has been changed so that, when adopted, that subparagraph will read:

(1) Oil.

(c) Oil produced by tertiary methods and mature field recovery oil is ~~shall be~~ taxed at the following tiered rates on the gross value at the point of production:

1. 1 percent of the gross value of oil \$60 and below;
2. 7 percent of the gross value of oil above \$60 and below \$80;
3. 9 percent of the gross value of oil \$80 and above.

4. Example: 200 barrels of oil were produced that had a value of \$90 per barrel at the time of production. Tax is calculated as follows:

First Tier:	200 barrels x \$60 x 1% = \$120
Second Tier:	+ 200 barrels x \$20 <u>\$19.99</u> x 7% = \$280 <u>\$279.86</u>
Third Tier:	+ 200 barrels x \$10 <u>\$10.01</u> x 9% = \$180 <u>\$180.18</u>
Total Tax Due:	<u>\$580.04</u> \$580

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

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

(1) Oil.

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

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

(c) Oil produced by tertiary methods and mature field recovery oil is ~~shall be~~ taxed at the following tiered rates on the gross value at the point of production:

1. 1 percent of the gross value of oil \$60 and below;
2. 7 percent of the gross value of oil above \$60 and below \$80;
3. 9 percent of the gross value of oil \$80 and above.

4. Example: 200 barrels of oil were produced that had a value of \$90 per barrel at the time of production. Tax is calculated as follows:

First Tier:	200 barrels x \$60 x 1% = \$120
Second Tier:	+ 200 barrels x \$19.99 \$20 x 7% = \$279.86 \$280
Third Tier:	+ 200 barrels x \$10.01 \$10 x 9% = \$180.18 \$180
Total Tax Due:	\$580.04 \$580

(d) Escaped Oil. When a regular monthly report required from a taxpayer does not disclose the actual source of any taxable oil, but does show such oil to have escaped from a well or wells and to have been recovered from streams, lakes, ravines, or other natural depressions, the tax rate is 12 1/2 percent of the gross value of such escaped oil and is in addition to the tax imposed upon oil production.

(2) Gas. The amount of tax ~~is shall be~~ measured by the volume of the gas produced and sold, or used. The rate for gas for each state fiscal year (July through June) ~~is shall be~~ the gas tax rate established by the Department pursuant to Section 211.025, F.S., ~~for the fiscal year.~~

(3) Sulfur. The amount of tax ~~is shall be~~ measured by the volume of the sulfur produced and sold, or used. The rate for sulfur for each state fiscal year (July through June) ~~is shall be~~ the sulfur tax rate established by the Department pursuant to Section 211.026, F.S., ~~for the fiscal year.~~

Rulemaking Authority 211.125(1), 213.06(1) FS. Law Implemented 211.02, 211.025, 211.026, 211.04 FS. History—New 12-28-78, Formerly 12B-7.04, Amended 12-18-94, 1-11-10,_____.

12B-7.008 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) DR-144	Gas and Sulfur Production Quarterly Tax Return (R. <u>07/12</u> 07/11)	<u>01/12</u>

([http://www.flrules.org/Gateway/reference.asp?No=Ref- ____ 00824](http://www.flrules.org/Gateway/reference.asp?No=Ref-____00824))

(3) DR-144ES Declaration of Estimated Gas and Sulfur Production
Tax (R. 07/12 ~~07/11~~) ____ ~~01/11~~

([http://www.flrules.org/Gateway/reference.asp?No=Ref- ____ 00824](http://www.flrules.org/Gateway/reference.asp?No=Ref-____00824))

(4) DR-145 Oil Production Monthly Tax Return
(R. 07/12 ~~01/11~~) ____ ~~01/11~~

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

(5) DR-145X Oil Production Monthly Amended Tax
Return (R. 07/12 ~~01/11~~) ____ ~~01/11~~

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

Rulemaking Authority 211.075(2), (3), 213.06(1), 1002.395(13) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.02, 211.0251, 211.026, 211.06, 211.075, 211.076, 211.125, 213.255, 213.755(1), 215.26, 1002.395 FS. History-New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03, 10-1-03, 11-6-07, 1-27-09, 1-11-10, 1-12-11, 1-25-12,_____.

12B-7.026 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) DR-142	Solid Mineral Severance Tax Return	

(R. 01/13 01/12)

___ 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00825)

(3) DR-142ES Declaration/Installment Payment of Estimated Solid

Mineral Severance Tax (R. 01/13 01/12)

___ 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00825)

Rulemaking Authority 211.33(1), (6), 213.06(1), 1002.395(13) FS. Law Implemented 92.525(2), 211.0251, 211.30, 211.31, 211.3103, 211.3106, 211.3108, 211.33, 213.255, 213.755(1), 215.26, 1002.395 FS. History-New 12-18-94, Amended 10-4-01, 5-4-03, 10-1-03, 11-6-07, 1-27-09, 1-11-10, 1-12-11, 1-25-12,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-12, FLORIDA ADMINISTRATIVE CODE
TAX ON PERCHLOROETHYLENE
AMENDING RULE 12B-12.007

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-12.007, F.A.C. (Refunds and Credits; Recordkeeping Requirements), remove obsolete provisions regarding refund applications for tax paid on or after October 1, 1994, and prior to July 1, 1999.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12B-12.007, F.A.C. (Refunds and Credits; Recordkeeping Requirements), are necessary to remove obsolete provisions regarding when an application for refund must be filed with the Department.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

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

Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2909), to advise the public of the proposed changes to Rule 12B-12.007, F.A.C. (Refunds and Credits; Recordkeeping Requirements), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule 12B-12.007, F.A.C. (Refunds and Credits; Recordkeeping Requirements). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, p. 96), to advise the public of the proposed changes to Rule 12B-12.007, F.A.C. (Refunds and Credits; Recordkeeping Requirements), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-12, FLORIDA ADMINISTRATIVE CODE
TAX ON PERCHLOROETHYLENE
AMENDING RULE 12B-12.007

12B-12.007 Refunds and Credits; Recordkeeping Requirements.

(1) No change.

(2)(a) Any person entitled to a refund of tax paid on perc to the Department must file an Application for Refund (~~Form form~~ DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department within 3 years after the date the tax was paid. Form DR-26 must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

~~1. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~2. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

(b) No change.

(3) through (4) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.75(11) FS. History—New 2-19-95, Amended 3-18-96, 4-17-03,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-2, FLORIDA ADMINISTRATIVE CODE
INTANGIBLE PERSONAL PROPERTY TAX
AMENDING RULES 12C-2.0115 AND 12C-2.012

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), remove the adoption, by reference, of obsolete Forms DR-350111 and DR-350112.

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), provide that Form DR-26 (Application for Refund) is to be used to obtain a refund of intangible personal property tax overpaid on governmental leasehold estates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Form DR-350111 (Intangible Tax Self-Audit Worksheet), Form DR-350112 (Taxpayer Affidavit), and Form DR-26I (Application for Refund-Intangible Personal Property Tax), previously used in the administration of the annual intangible personal property prior to its repeal are now obsolete. Taxpayers seeking refunds of the intangible personal property tax on governmental leasehold estates that is not automatically refunded by the Department must apply using Form DR-26 (Application for Refund).

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), are necessary to repeal the adoption, by reference, of obsolete Forms DR-350111 and DR-350112.

The proposed amendments to Rule 12C-2.012, F.A.C. (Refunds), are necessary to update the application to be used by taxpayers to obtain a refund of intangible personal property tax overpaid 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2912), to advise the public of the proposed changes to Rule 12C-2.0115, F.A.C. (Public Use Forms) and Rule 12C-2.012, F.A.C. (Refunds), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule 12C-2.0115, F.A.C. (Public Use Forms) and Rule 12C-2.012, F.A.C. (Refunds). A notice for the public hearing was published in the Florida Administrative Register

on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 97 - 99), to advise the public of the proposed changes to Rule 12C-2.0115, F.A.C. (Public Use Forms) and Rule 12C-2.012, F.A.C. (Refunds), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. 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 RULES 12C-2.0115 AND 12C-2.012

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
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(2) through (3) No change.

(4) DR-350111	Intangible Tax Self-Audit Worksheet	
	(R. 06/07)	01/08
(5) DR-350112	Taxpayer Affidavit (R. 06/01)	05/03

Rulemaking Authority 199.202, 213.06(1) FS. Law Implemented 119.071(5), 196.199(2), 199.032 (2005), 199.042 (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,_____.

12C-2.012 Refunds.

(1)(a) Any person entitled to a refund of intangible personal property taxes may seek a

refund by filing an Application for Refund ~~Intangible Personal Property Tax~~ (Form DR-26I, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26I must be 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.

(b) Form DR-26I, Application for Refund ~~Intangible Personal Property Tax~~, must be filed with the Department within three (3) years after the date the tax was paid.

(2) No change.

Rulemaking Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 199.232, 213.255(2), (3), 215.26(2) FS. History-New 4-17-72, Formerly 12C-2.12, Amended 11-21-91, 5-4-03, 9-28-04, 1-28-08,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULE 12-18.008

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-18.008, F.A.C. (Compensation for Vending Machine Violations), reflect changes to the notice required to be placed on vending machines by operators.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12-18.008, F.A.C. (Compensation for Vending Machine Violations), is to update the notice to customers that must be affixed to a vending machine by the operator of the machine, as provided in Section 212.0515(3), F.S., as amended by Section 6, Chapter 2010-138, L.O.F., and provided in Rule 12A-1.044, F.A.C.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2894), to advise the public of the proposed amendment to Rule 12-18.008, F.A.C. (Compensation for Vending Machine Violations), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed amendment to Rule 12-18.008, F.A.C. (Compensation for Vending Machine Violations). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 70 - 71), to advise the public of the proposed amendment to Rule 12-18.008, F.A.C. (Compensation for Vending Machine Violations), and to provide that, if

requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULE 12-18.008

12-18.008 Compensation for Vending Machine Violations.

(1) No change.

(2) Operators of vending machines must be registered with the Department of Revenue, and must affix a notice to each food or beverage machine which contains the Notice to Customers, as provided in ~~states the operator's name, address, and Federal Identification (FEI) number or sales tax registration number. (See Rule 12A-1.044, F.A.C., for additional information on notices.)~~

(3) through (7) No change.

Rulemaking Authority 212.0515(7), 213.06(1), 213.30(1) FS. Law Implemented 212.0515, 213.30 FS. History—New 5-11-92, Amended 10-19-99, 6-1-09,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
AMENDING RULES 12-22.002 AND 12-22.005

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-22.002, F.A.C. (Definitions): (1) update the definition of “return” to reflect the definition provided in Section 213.755(2)(a), F.S.; and (2) remove unnecessary definitions of terms.

The proposed amendments to Rule 12-22.005, F.A.C. (Disclosure Procedures): (1) clarify that a Power of Attorney and Declaration of Representative (Form DR-835) must be executed by the taxpayer and the taxpayer’s representative for the Department to release tax information to the representative; (2) remove information redundant of Rule 12-6.0015, F.A.C., on how to obtain a copy of Form DR-835; (3) provide that Form DR-841, Request for Copy of Tax Return, may be utilized to request copies of tax returns and how to obtain the form from the Department; (4) provide how government agencies and officials may request tax information from the Department; (5) provide how to request information from the Department involving the administration of a bankruptcy estate; (6) provide where in the Department subpoenas for disclosure of reports of large currency transactions and criminal and RICO Act subpoenas are to be served; and (7) update the addresses contained in the rule.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 213.053, F.S. (Confidentiality and Information Sharing), provides that all information contained in returns, reports, accounts, or declarations received by the Department are confidential, except for official purposes. This section provides when confidential information may be made available to specified agencies for use in the performance of their official duties. In addition, federal tax information obtained by the Department from the Internal Revenue Service is held confidential pursuant to federal law and regulation.

The proposed changes to Rule Chapter 12-22, F.A.C. (Confidentiality and Disclosure of Tax Information), are necessary update those rules providing how to request information that may be released by 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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2894 - 2895), to advise the public of the proposed changes to Rule Chapter 12-22, F.A.C. (Confidentiality and Disclosure of Tax Information), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule Chapter 12-22, F.A.C. (Confidentiality and Disclosure of Tax Information). A notice for the public hearing was published in the Florida Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 72 - 75), to advise the public of the proposed changes to Rule Chapter 12-22, F.A.C. (Confidentiality and Disclosure of Tax Information), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department.

In response to written public comment, subsection (4) of Rule 12-22.005, F.A.C., has been changed so that, when adopted, that subsection will read:

(4) Written Requests for Tax Information by Government Agencies and Officials.

~~Requests for Statistical Information. Statistical reports, compiled from tax return information, shall be released by the Department if such tabulations are so classified to prevent the identification of particular accounts, reports, declarations, or returns. All requests seeking statistical information compiled from tax return information should be addressed to the Program Director, Information Services Program, 5050 West Tennessee Street, Tallahassee, Florida~~

~~32399-0112. Requests which require special programming will be subject to a fee based on the cost of preparation.~~

(a) The Department may provide tax information to any federal, state, or local agency or official specifically authorized by Section 213.053, F.S. Tax information provided under subsection 213.053(8), F.S., will be disclosed under the terms of a written agreement executed between the Department and the requesting agency or official. All other requests for information must be in writing and directed to the Confidential Incident Response and Disclosure Officer, Florida Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, for review and clearance prior to disclosure.

(b) The Confidential Incident Response and Disclosure Officer maintains all written agreements between the Executive Director and agencies authorized to receive information and periodically reviews the procedures and the disclosure activity of the Department to ensure compliance with statutes governing the confidentiality of tax information. Any questions or requests not covered by existing procedures or agreements must be directed to the Confidential Incident Response and Disclosure Officer.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
AMENDING RULES 12-22.002 AND 12-22.005

12-22.002 Definitions. For the purposes of this rule chapter, the terms ~~and phrases used in these rules shall~~ have the meanings prescribed in this section, ~~unless a different meaning is clearly indicated by the context in which the term or phrase is used.~~

(1) “Department” means the Florida Department of Revenue.

(2) “Disclosure” means making known or available to any person in any manner whatsoever, a return, return information, state tax information, or federal tax information.

~~(3) “Debt collection agency” means any person or entity with whom the Department has contracted for the collection of taxpayers’ liabilities, as authorized pursuant to Section 213.27, F.S. “Private auditor” means a certified public accountant with whom the Department has contracted to audit taxpayer accounts pursuant to Section 213.28, F.S.~~

~~(3)~~(4) “Federal tax information” means any tax information furnished to the Department by the Internal Revenue Service.

~~(4)~~(5) “Return” means any report, claim, statement, notice, application, affidavit, or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of those documents, declarations, reports, schedules, amendments, or other written statements filed with the Department by a taxpayer under a revenue law of this state ~~which or rules of the Department has the responsibility of regulating, controlling, and~~

administering. This term includes any copy of a federal income tax return or other attachments which are designed to be supplemental to, or become a part of, a return. ~~However, the annual report required of taxpayers who claim the enterprise zone jobs credit under ss. 220.181(3) and 212.096(4), F.S., is not included in the definition of return.~~

~~(5)~~(6) No change.

~~(7) "Revenue laws of this state" mean those laws enumerated in Section 213.053(1), F.S.~~

(8) through (11) Renumbered (6) through (9) No change.

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 212.12, 212.13, 212.133, 213.03, 213.053, 213.28, 213.755(2)(a) FS. History—New 12-18-88, Amended 11-14-91, 6-23-92, _____.

12-22.005 Disclosure Procedures.

(1) Taxpayer Requests for Tax Information.

(a) The Department will permit taxpayers or their authorized representatives to inspect and receive copies of the taxpayer's tax returns and related documents filed with the Department, when lawfully requested. Department records are maintained by the Records Center Manager, Return and Revenue Processing, Florida ~~within the Department of Revenue, 2450 Shumard Oak Boulevard, Records Management Room 1-4364, 5050 West Tennessee Street, Tallahassee, Florida 32399-0158,~~ and are available for authorized inspection Monday through Friday, excluding legal holidays, between the hours of 8:00 a.m. and 5:00 p.m.

1. Taxpayers seeking disclosure of their confidential tax information in person must establish proper identification, such as a valid driver's license or personal identification card. The signature of the taxpayer will also be compared with the signature displayed on the appropriate

identification instrument;

2. Taxpayer representatives requesting confidential information in person are also required to established proper identification.

3. A taxpayer may authorize his or her representatives to receive confidential state tax information by filing a completed Power of Attorney and Declaration of Representative (Form DR-835, incorporated by reference in Rule 12-6.0015, F.A.C.), signed by the taxpayer and the representative. A taxpayer's representative must present the executed Power of Attorney and Declaration of Representative to the Department ~~notarized authorization or power of attorney from the taxpayer must be presented~~ prior to the release of confidential state tax information. See ~~(2)(b)3. of this rule.~~

(b) Taxpayers or their authorized representatives, after establishing their identity, may inspect, in person, any state tax documents filed by or on behalf of the same taxpayer. Audit reports that have previously been furnished to the taxpayer may also be inspected. However, audit workpapers, interoffice communications, investigative reports, and cover letters expressing opinions may not be inspected without prior authorization from the Executive Director or the Assistant Executive Director or their delegate.

(c) Prior to making state tax information available for inspection or copying, the custodian or employee making disclosure will ~~shall~~ disassociate all federal tax information and all other reports, documents, or information, the release of which is not authorized.

(2) Written Requests for Tax Information by a Taxpayer, Taxpayer's Representative, or Personal Representative of an Estate.

(a)1.a. A taxpayer, a taxpayer's authorized representative, or the personal representative of an estate may request a copy of the taxpayer's returns by submitting a completed and signed

Request for Copy of Tax Return (Form DR-841, R. 03/11, hereby incorporated by reference, effective _____) (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____) or a written request directed to the ~~Records Center Manager, Return and Revenue Processing~~, Records Management, ~~MS Room~~ 1-4364, 5050 West Tennessee Street, Tallahassee, Florida 32399-0158.

b. Copies of forms may be obtained, without cost, by: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800) 352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

2. A written request must be submitted on the business' letterhead and must include: the federal identification number or social security number of the owner, business mailing address, records requested, and the signature of the owner or a registered officer of the business.

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

(b)(a) Included in those classes of persons who are allowed access to previously

submitted state tax information upon written request are the authorized representatives of corporations, partnerships, trusts, estates, receiverships, and other artificial entities.

~~(b) Written requests for tax information shall be signed by the taxpayer or the taxpayer's authorized representative and shall state taxpayer's name, address, account number, the type or class of tax and taxable period of the records requested. Requests received from corporations must be signed by a principal officer and attested to by the secretary or another officer of the corporation.~~

~~(c)1. All copies of state tax returns filed by or on behalf of a taxpayer are sent directly to the taxpayer's address of record unless the taxpayer requests, by power of attorney or proper written authorization, that the information be sent to another address.~~

2. A taxpayer's representative must ~~may~~ be authorized to receive copies of state tax returns and state tax information on behalf of the taxpayer. An authorized representative must attach an executed Power of Attorney and Declaration of Representative (Form DR-835) to the Request for Copy of Tax Return (Form DR-841) ~~The taxpayer must submit written authorization for such disclosure prior to the release of any returns or return information by the Department.~~

~~3. A taxpayer may authorize his representative to receive confidential state tax information by a documented Power of Attorney filed with the Department. The Department prescribes form DR-835, Power of Attorney and Declaration of Representative (incorporated by reference in Rule 12-6.0015, F.A.C.), as the form to be used for the purposes of this chapter.~~

~~3.4. The Department will ~~shall~~ review all written requests for state tax information and determine the authenticity of the request prior to disclosing any confidential tax information. Any document which authorizes a taxpayer's representative to receive confidential state tax information submitted by the taxpayer should be included with the written request for tax records~~

~~and directed to the Records Center Manager, Return and Revenue Processing, Records Management Room 1-4364, 5050 West Tennessee Street, Tallahassee, Florida 32399-0158.~~

(3) Telephone Requests for Tax Information. Department employees may disclose confidential state tax information by telephone only when the identity of the caller is established as that of the taxpayer or the taxpayer's ~~his~~ authorized representative.

(a) Persons who claim to be taxpayers will be advised that the requested information must be researched for a return call. The return telephone number must be verified as belonging to the taxpayer prior to the disclosure of any state tax information.

(b) A person who claims to be an authorized representative of a taxpayer must have a completed Power of Attorney and Declaration of Representative (Form DR-835) signed by the taxpayer and the representative ~~letter of authorization or power of attorney~~ on file with the Department. The representative will be advised that upon verification of such authorization, requested state tax information will be researched for a return call. The return telephone number must be verified as belonging to the authorized taxpayer representative prior to the disclosure of any tax information.

(c) Persons who request copies of state tax information by telephone will be advised that the requested information will be mailed to the address of the taxpayer on record, ~~unless the taxpayer submits a written authorization requesting that the documents be sent elsewhere.~~

(4) Written Requests for Tax Information by Government Agencies and Officials.
~~Requests for Statistical Information. Statistical reports, compiled from tax return information, shall be released by the Department if such tabulations are so classified to prevent the identification of particular accounts, reports, declarations, or returns. All requests seeking statistical information compiled from tax return information should be addressed to the Program~~

~~Director, Information Services Program, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Requests which require special programming will be subject to a fee based on the cost of preparation.~~

(a) The Department may provide tax information to any federal, state, or local agency or official specifically authorized by Section 213.053, F.S. Tax information provided under subsection 213.053(8), F.S., will be disclosed under the terms of a written agreement executed between the Department and the requesting agency or official. All other requests for information must be in writing and directed to the Confidential Incident Response and Disclosure Officer, Florida Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, for review and clearance prior to disclosure.

(b) The Confidential Incident Response and Disclosure Officer maintains all written agreements between the Executive Director and agencies authorized to receive information and periodically reviews the procedures and the disclosure activity of the Department to ensure compliance with statutes governing the confidentiality of tax information. Any questions or requests not covered by existing procedures or agreements must be directed to the Confidential Incident Response and Disclosure Officer.

(5) Written Requests for Tax Information Involving the Administration of a Bankruptcy Estate. Requests for information allowed under Section 213.053(12), F.S., must be directed to the Administrator, Bankruptcy Section, Florida Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668.

(6)(5) No change.

(7) Subpoenas under Section 213.053(8), F.S., seeking disclosure of reports of large currency transactions filed with the Department under Section 896.102(1), F.S., should be

addressed to the Criminal Investigations Process Owner, Florida Department of Revenue, 2450 Shumard Oak Boulevard, Tallahassee, Florida 32399-0100, as custodian of the reports.

(8) Orders of a judge and criminal and RICO Act subpoenas which seek disclosure of all other tax information should be served on the Records Manager, Florida Department of Revenue, 2450 Shumard Oak Boulevard, Tallahassee, Florida 32399-0158, as the designated custodian of records for the Department.

Rulemaking Authority 213.06(1), 213.22(4) FS. Law Implemented 213.053, 213.22 FS. History—
New 12-18-88, Amended 1-25-12, _____.

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 RULES 12-24.011 AND 12-24.028

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), adopt, by reference: (1) simplification of the tax types and filing method selections contained in Form DR-600 (Enrollment and Authorization for e-Services Program); and (2) changes that will update the privacy notice statement on Form DR-654 (Request for Waiver from Electronic Filing), used by the Department in the administration of the e-Services program.

The proposed amendments to Rule 12-24.028, F.A.C. (Alternative Storage Media), change the reference regarding recordkeeping requirements to Section 213.35, F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records.

The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), are necessary to adopt changes to the enrollment application used to enroll in the Department's e-Services

Program to include the privacy notice and to simplify the application. The proposed amendments to Rule 12-24.028, F.A.C. (Alternative Storage Media), update a reference to a statutory provision on recordkeeping.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2895 - 2896), to advise the public of the proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), and Rule 12-24.028, F.A.C. (Alternative Storage Media), to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 11, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 11, 2012, and approved the publication of the Notice of Proposed Rule for the proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), and Rule 12-24.028, F.A.C. (Alternative Storage Media). A notice for the public hearing was published in the Florida

Administrative Register on November 27, 2012 (Vol. 38, No. 78, pp. 5185 - 5186).

SUMMARY OF RULE HEARING

JANUARY 29, 2013

A Notice of Proposed Rule was published in the Florida Administrative Register on January 7, 2013 (Vol. 39, No. 4, pp. 75 - 77), to advise the public of the proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), Rule 12-24.028, F.A.C. (Alternative Storage Media), and to provide that, if requested, a rule hearing would be held on January 29, 2013. No request was received by the Department. 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 RULES 12-24.011 AND 12-24.028

PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION

12-24.011 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) DR-600	Enrollment and Authorization for e-Services Program (R. ___ 03/11)	___ 06/11
	http://www.flrules.org/Gateway/reference.asp?No=Ref-___ -00268	

(3) DR-654	Request for Waiver from Electronic Filing (R. ___ 01/09)	___ 06/09
	http://www.flrules.org/Gateway/reference.asp?No=Ref-_____	

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

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

12-24.028 Alternative Storage Media.

(1) No change.

(2) Microfilm, microfiche, and other storage-only imaging systems shall meet the following requirements.

(a) No change.

(b) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained under Section 213.35, F.S. ~~Rule 12-24.030, F.A.C.~~

(c) through (f) No change.

Rulemaking Authority 202.26(3)(a), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS.

History—New 10-24-96, Amended 4-30-02, _____.

ATTACHMENT 4



Interim
Executive
Director
Marshall Stranburg

April 2, 2013

MEMORANDUM

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

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Cabinet Affairs
Erin Sumpter, Cabinet Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer
Services
Attention: Jim Boxold, Chief Cabinet Aide
Brooke McKnight, Cabinet Aide

THRU: Marshall Stranburg, Interim Executive Director

FROM: Andrea Moreland, Director, Legislative and Cabinet Services

SUBJECT: Requesting Approval to Hold Public Hearing on 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 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 these proposed rules:

Child Support Enforcement – Ann Coffin, Director • General Tax Administration – Jim Evers, Director
Property Tax Oversight – James McAdams, Director • Information Services – Tony Powell, Director

www.myflorida.com/dor
Tallahassee, Florida 32399-0100

- Documentary Stamp Tax - Transfers Made Pursuant to a Confirmed Bankruptcy Plan
(*Rules 12B-4.013, 12B-4.014, and 12B-4.054, F.A.C.*)

Why are the proposed rules necessary? The proposed rule amendments are needed to clarify when documentary stamp tax applies to transfers made under a bankruptcy plan, in accord with the holding of the U.S. Supreme Court. (*Rules 12B-4.013, 12B-4.014, 12B-4.054, F.A.C.*)

What do these proposed rules do? The proposed amendments clarify that the documentary stamp tax does not apply to documents that transfer an interest in real property, or written obligations to pay or other evidence of indebtedness, when the transfer or issuance occurs under a bankruptcy plan after the plan been confirmed by the court. This proposed change is in accord with the holding of the U.S. Supreme Court in Florida Department of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33 (2008). The proposed rule amendments also remove redundancy regarding transfers related to bankruptcy proceedings.

Were comments received from external parties? No.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-4, FLORIDA ADMINISTRATIVE CODE
DOCUMENTARY STAMP TAX
AMENDING RULES 12B-4.013, 12B-4.014 AND 12B-4.054

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), and Rule 12B-4.014, F.A.C. (Conveyances Not Subject to Tax), clarify that a document that transfers Florida real property pursuant to a bankruptcy plan under 11 U.S.C. Section 1129 after the bankruptcy plan has been confirmed is not subject to documentary stamp tax and that transfers prior to confirmation of the plan are subject to tax.

The proposed amendments to Rule 12B-4.054, F.A.C. (Exempt Transactions), clarify that a promissory note or other written obligation to pay money, bond, mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in Florida issued pursuant to a bankruptcy plan under 11 U.S.C. Section 1129 after the plan has been confirmed is not subject to documentary stamp tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The Supreme Court of the United States concluded that 11 U.S.C. Section 1146(a) affords a stamp-tax exemption only to transfers made pursuant to a Chapter 11 bankruptcy plan that has been confirmed under 11 U.S.C. Section 1129 (Florida Department of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33 (2008)).

The proposed amendments to Rule Chapter 12B-4, F.A.C. (Documentary Stamp Tax), are necessary to clarify the application of documentary stamp tax to the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer pursuant to Section 1146(a) under a bankruptcy plan confirmed under 11 U.S.C. Section 1129.

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 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2906), to advise the public of the proposed changes to Rule Chapter 12B-4, F.A.C. (Documentary Stamp Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

DOCUMENTARY STAMP TAX

RULE NO: RULE TITLE:

12B-4.013 Conveyances Subject to Tax

12B-4.014 Conveyances Not Subject to Tax

12B-4.054 Exempt Transactions

PURPOSE AND EFFECT: The Supreme Court of the United States concluded that 11 U.S.C. Section 1146(a) affords a stamp-tax exemption only to transfers made pursuant to a Chapter 11 bankruptcy plan that has been confirmed under 11 U.S.C. Section 1129 (Florida Department of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33 (2008)).

The purpose of the proposed amendments to Rule Chapter 12B-4, F.A.C. (Documentary Stamp Tax), is to clarify the application of documentary stamp tax to the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer pursuant to Section 1146(a) under a bankruptcy plan confirmed under 11 U.S.C. Section 1129.

SUMMARY: The proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), and Rule 12B-4.014, F.A.C. (Conveyances Not Subject to Tax), clarify that a document that transfers Florida real property pursuant to a bankruptcy plan under 11 U.S.C. Section 1129 after the bankruptcy plan has been confirmed is not subject to documentary stamp tax and that transfers prior to confirmation of the plan are subject to tax.

The proposed amendments to Rule 12B-4.054, F.A.C. (Exempt Transactions), clarify that a promissory note or other written obligation to pay money, bond, mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in Florida issued pursuant to a

bankruptcy plan under 11 U.S.C. Section 1129 after the plan has been confirmed is not subject to documentary stamp tax.

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 clarification of the taxability of documents transferring an interest in real property prior to and after confirmation of bankruptcy, 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: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 201.01, 201.02, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS.

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

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

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 Tammy Miller at (850) 617-8347. 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: Tim Phillips, Revenue Program Administrator, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7224.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-4, FLORIDA ADMINISTRATIVE CODE
DOCUMENTARY STAMP TAX
AMENDING RULES 12B-4.013, 12B-4.014 AND 12B-4.054

12B-4.013 Conveyances Subject to Tax.

(1) through (18) No change.

~~(19) Transfer in Bankruptcy: Sale of real property by trustees, debtors, or receivers in federal bankruptcy proceedings is subject to tax unless the transfer is made pursuant to a plan confirmed under Section 1129 of the Bankruptcy Code, is a precondition or is essential to the confirmation of the plan, or is necessary to consummate or implement a confirmed plan. The debtor must be a party to the transfer. If the bankruptcy court does not ultimately confirm the plan under 11 U.S.C. Section 1129, the transfer would not be exempt pursuant to 11 U.S.C. Section 1146(c), and would be subject to tax. (1932 Op. Att’y. Gen. Fla. 1931 Biennial Report, Page 1039 (Sept. 14, 1932)) (11 U.S.C. Section 1146(c); In re Jacoby Bender, Inc., 758 F.2d 840 (2d Cir. 1985); In re Smoss Enterprises Corp., 54 Bankr. 950 (E.D.N.Y. 1985)).~~

~~Cross Reference—subsections 12B-4.014(15), 12B-4.054(30), F.A.C.~~

(20) through (29) Renumbered (19) through (28) No change.

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—Revised 8-18-73, Formerly 12A-4.13, Amended 12-11-74, 2-21-77, 5-23-77, 12-26-77, 7-3-79, 9-16-79, 11-29-79, 3-27-80, 12-23-80, 12-30-82, Formerly 12B-4.13, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 7-28-98, 1-4-01, 5-4-03, 4-5-07,_____.

12B-4.014 Conveyances Not Subject to Tax.

(1) through (14) No change.

(15) Confirmed Transfer in Bankruptcy Plan: A document that transfers an interest in Florida Sale of real property by trustees, debtors or receivers in federal bankruptcy proceedings is subject to tax unless the transfer is made pursuant to a Chapter 11 plan that was confirmed under Section s- 1129 of the Bankruptcy Code, (Title 11 U.S.C.) prior to the date of is a precondition or essential to the confirmation of the plan, or is necessary to consummate or implement a confirmed plan and the debtor is a party to the transfer is not taxable. A document that transfers Florida real property prior to confirmation of the bankruptcy plan is subject to tax. If the bankruptcy court does not ultimately confirm the plan under 11 U.S.C. § 1129, the transfer would not be exempt pursuant to 11 U.S.C. § 1146(c), and would be subject to tax. (11 U.S.C. Section §1146(a)(e); Florida Department of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33 (2008)). In re Jacoby Bender, Inc., 758 F.2d 840 (2d Cir. 1985); In re Smoss Enterprises Corp., 54 Bankr. 950 (E.D.N.Y. 1985)).

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History— Revised 8-18-73, Formerly 12A-4.14, Amended 2-21-77, 12-26-77, 12-23-80, Formerly 12B-4.14, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 1-4-01, 4-14-09,_____.

12B-4.054 Exempt Transactions.

(1) through (29) No change.

(30) Confirmed Bankruptcy Plan: A Under 11 U.S.C. 1146(c), the issuance, transfer, or exchange of a promissory note, bond or other written obligation to pay for the payment of money, bond, or the making, delivery or recordation of a mortgage, trust deed, security agreement or

other evidence of indebtedness filed or recorded in Florida issued, ~~is exempt from the documentary stamp tax if it is done pursuant to a Chapter 11 plan which was confirmed by the federal bankruptcy court under 11 U.S.C. Section 1129 of the Bankruptcy Code (Title 11 U.S.C.), prior to the date of the issuance is not taxable, is a precondition or essential to the confirmation of the plan, or is necessary to consummate or implement a confirmed plan and the debtor is a party to the transaction. If the bankruptcy court does not ultimately confirm the plan under 11 U.S.C. 1129, the transfer would not be exempt pursuant to 11 U.S.C. 1146(c), and would be subject to tax. (In re Baldwin League of Independent Schools, 110 Bankr. 125 (S.D.N.Y. 1990)). However, the bankruptcy exemption under (11 U.S.C. Section 1146(a)(c); Florida Department of Revenue v. Piccadilly Cafeterias, Inc., 554 U.S. 33 (2008)). does not apply to a mortgage or trust deed given to a third party lender by a non-debtor purchaser of real property from a seller in bankruptcy, even if the sale is pursuant to a confirmed plan. (In re Eastmet Corporation, 907 F. 2d 1487 (4th Cir. 1990))~~

~~Cross Reference—subsections 12B-4.013(22) and 12B-4.014(15), F.A.C.~~

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS. History—Revised 8-18-73, Formerly 12A-4.54, Amended 2-21-77, 11-29-79, 3-5-80, 4-11-80, 7-27-80, 12-23-80, 2-12-81, Formerly 12B-4.54, Amended 3-30-81, 12-3-81, 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01, 5-4-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Tim Phillips, Revenue Program Administrator, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7224.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2906), to advise the public of the proposed changes to Rule Chapter 12B-4, F.A.C. (Documentary Stamp Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

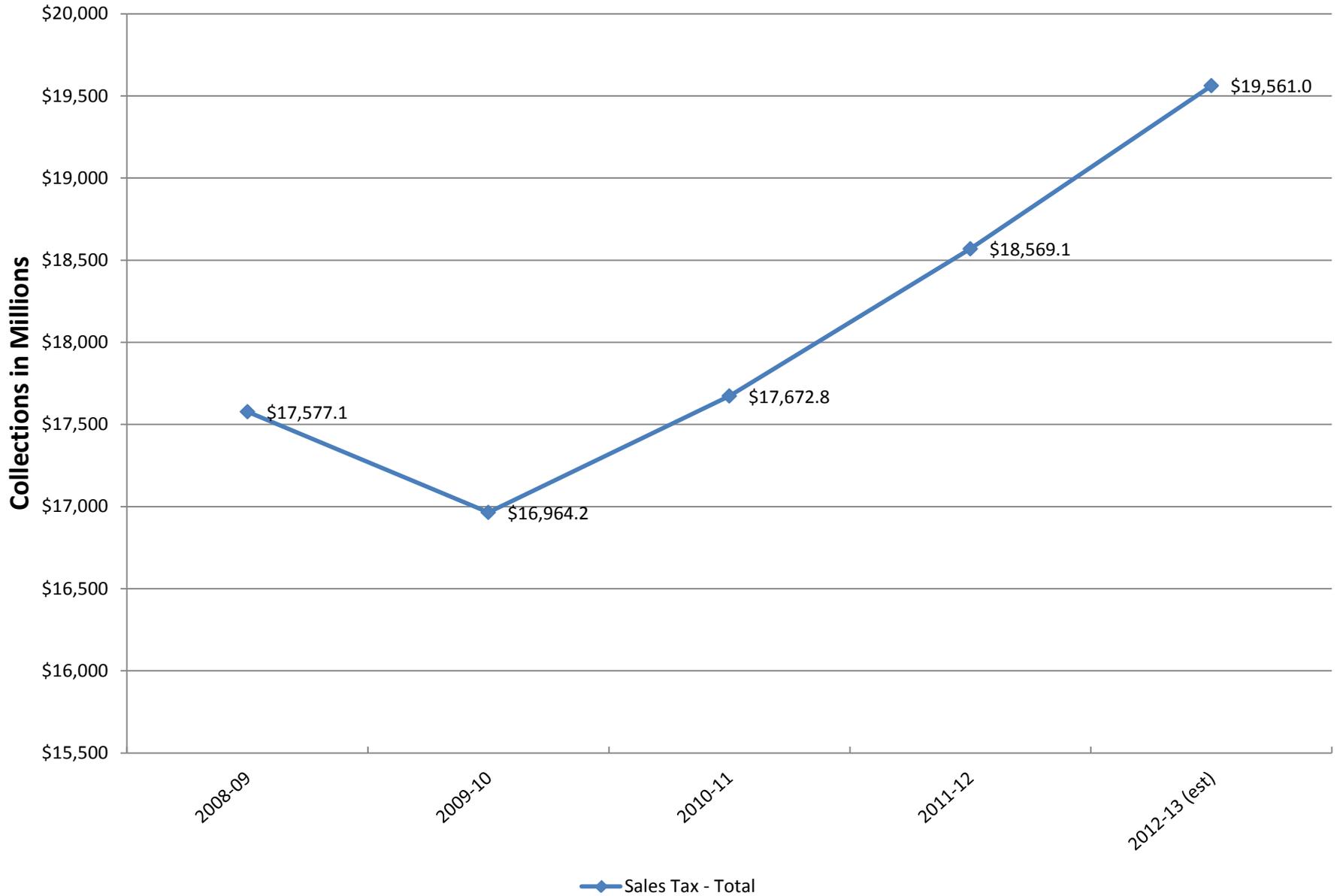
ATTACHMENT 5



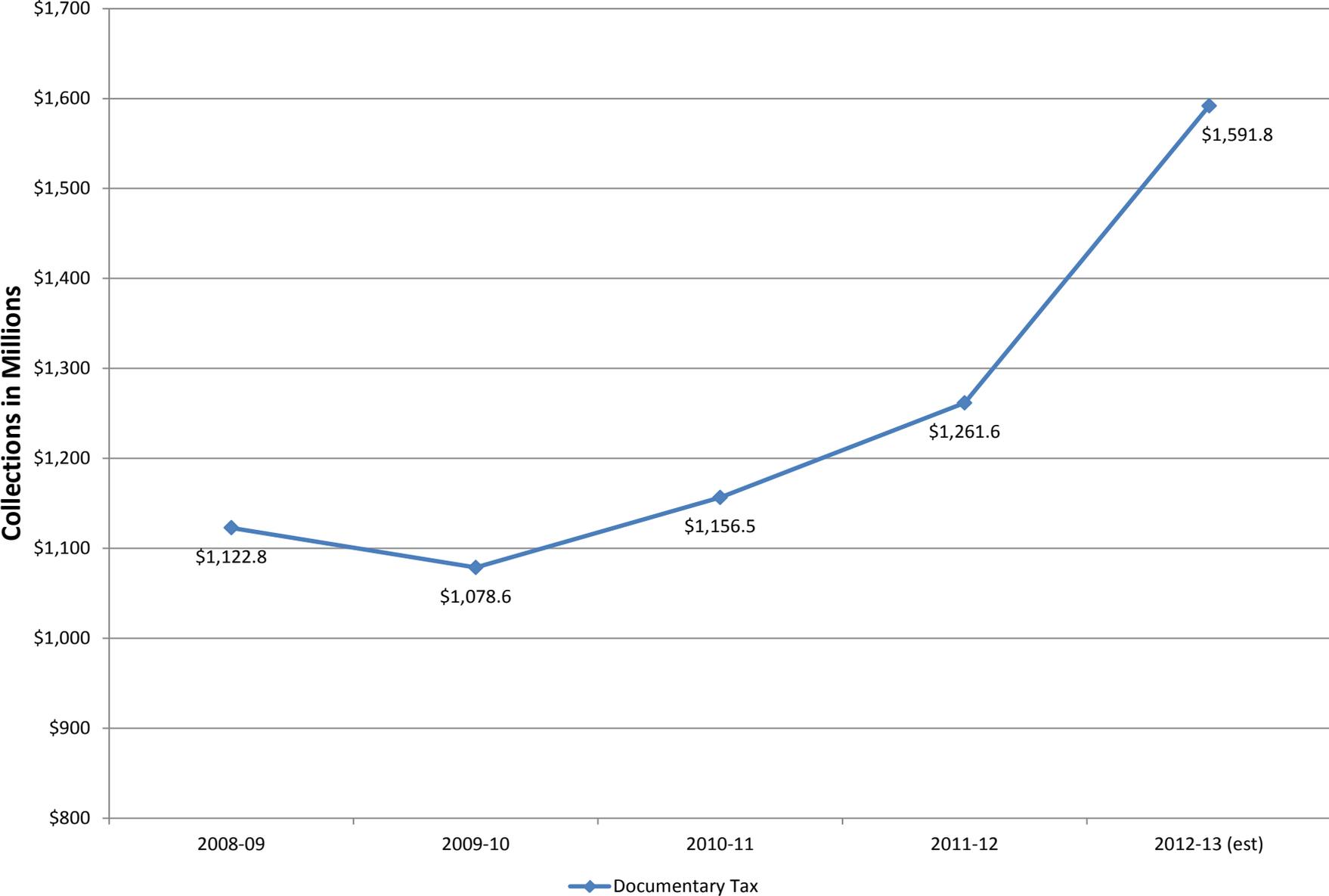
Meeting of the Governor and Cabinet
April 2, 2013

Presentation by:
Marshall Stranburg
Interim Executive Director
Florida Department of Revenue

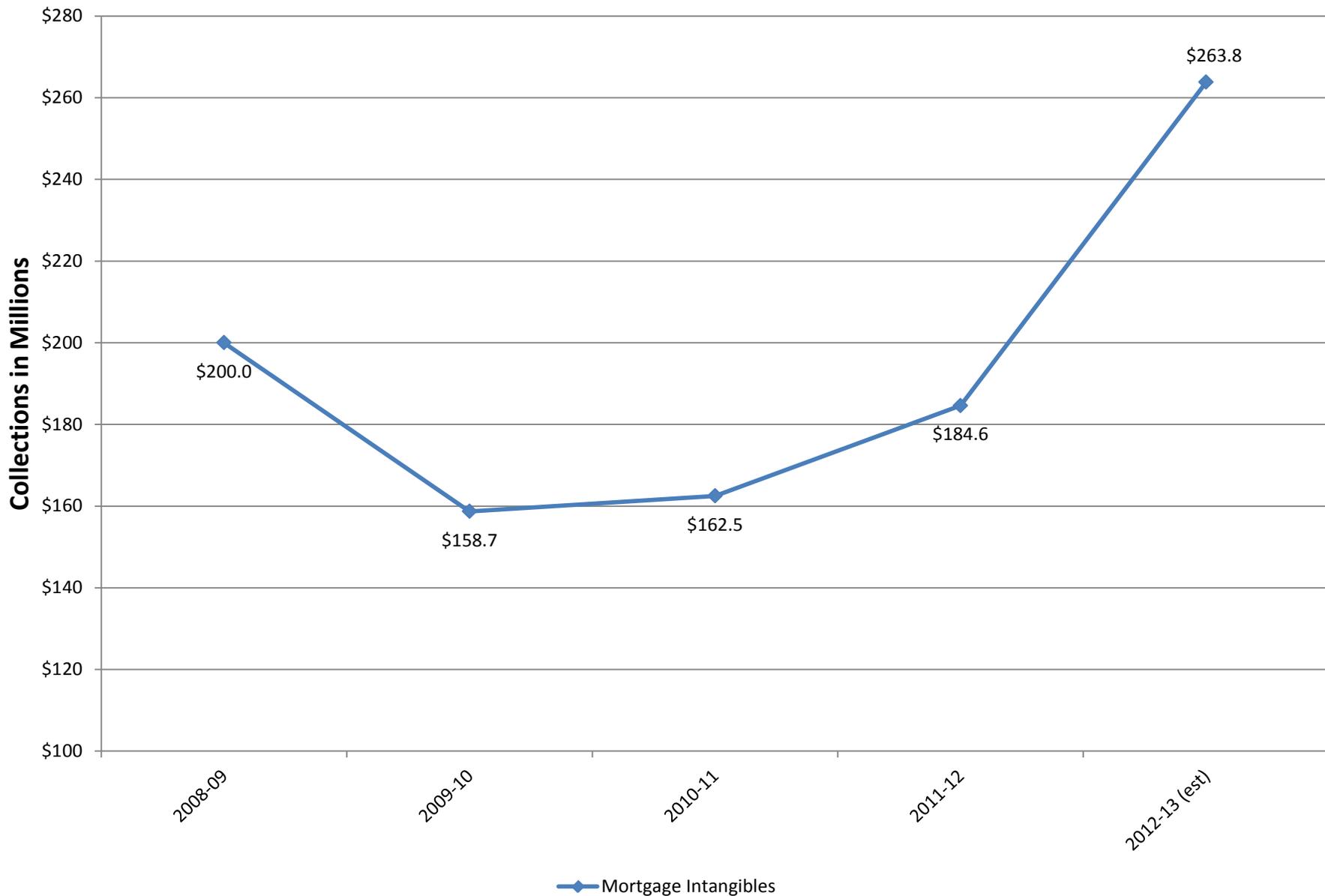
Sales Tax - Total Collections



Documentary Stamp Tax Collections



Mortgage Intangibles Collections



Child Support Program Customer Service Revitalization

*HOW WE ARE WORKING TO BUILD A BIGGER AND
BETTER BRIDGE TO OUR CUSTOMERS AND PARTNERS*

Child Support Customer Service Revitalization

Our customer and partner expectations are changing rapidly

Here's what we're doing to help meet their expectations



BEFORE



Walk-In Service Delivery Model

AFTER



Chat with Us Online!



Chat is available:
10:00 AM to 4:00 PM EST
Monday - Friday
Read our [privacy notice](#)

Child Support Web Chat service is available on our website.

https://fldeptofrevenue.whoson.com/?domain=dor.myflorida.com&session=738-13491854033

WhosOn Live Chat

Welcome to Web Chat! You must complete the entire survey below in order to chat with us.

Please Enter Your First and Last Name:
Lauren Test

What topic would you like to chat about?

- Case Status
- Apply for Services
- Payment Information
- Enforcement Activities
- Support Order Review

Which option best describes you? (Select One)

- I do not have a child support order
- I have an order to receive child support
- I am ordered to pay child support
- Employer
- Other

Do you have an open child support order?

- Yes, enter your personal information
- No, enter your personal information

Name of Other Parent (if applicable):

Enter your Social Security number:

Date of birth in MM/DD/YYYY for:

Street Address:

dor.myflorida.com

Web Chat

WhosOn Chat: Chatting - Windows Internet Explorer provided by Florida Dept. of Revenue

https://fldeptofrevenue.whoson.com/chat/chat.aspx?domain=dor.myflorida.com&SID=0

whoson chat: Connected

[Click here to begin survey](#)

Savannah says:
Hello Amy Demo . My name is Savannah how can I help you?

Amy Demo says:
Yes, i would like to know when the last payment received on my case.

Savannah says:
Sure, I will be more than happy to provide you with that information. Give me just a moment please while I access your case.

Amy Demo says:
Ok.

Savannah says:
Thanks for holding. I am showing the last payment received on your case is dated for 3/01/2013 for \$425.00 which was deposited onto your Florida Eppicard.

Amy Demo says:
Thanks, I haven't had the opportunity to check the balance on my card. Can you tell me what he owes?

Savannah says:
Yes, there is a delinquent balance of \$212.50.

Amy Demo says:
Thanks!

Savannah says:
Is there anything further I can assist you with?

No, that is all.

Send

Powered By WhosOn

e-Services

Support Amount	Support Type	Payment Frequency	Begin Date
\$210.00	Current Support	Semimonthly	4/1/2012
\$70.00	Alimony	Semimonthly	4/1/2012
\$20.00	Past-Due Alimony	Semimonthly	9/1/2012

Child Support e-Services
Get case information online!
 It is fast, free, and secure

You can:

- Access and update to your information anytime
- View actions taken on your case
- Get a summary of your support order
- View and print your payment history



Sign up if you:

- Are the parent or caregiver of a child
- Get child support services directly from one of the following:
 - ✓ The Florida Department of Revenue
 - ✓ The Miami-Dade State Attorney's Office
 - ✓ The Manatee County Clerk of Court

To sign up go to: www.myflorida.com/dor/childsupport



Improvements for Employers

Employers are important to us

- **Sent \$968 million in child support collections last year**
- **This accounts for over 50% of all child support collected on behalf of Florida's children**

**Making it easier to work with us, is a top priority.
Here's some ways we're starting with...**

- 17 companies, from retail, restaurant and other industries, are currently participating in e-IWO
 - 756 withholding orders issued electronically since implementation (2/15)
 - Over 100,000 cases associated with employees of these companies
- We anticipate having a total of 445 companies participating within the next 60 days



We received this note from one company:

*“Just wanted to let you know that we did successfully receive 4 e-IWOs today!!!!
YEAH!!!!”*

Employer Services Website

The screenshot shows the Florida Department of Revenue website with the 'Pro-ration Calculator' selected. The page includes a navigation menu with 'Home', 'Child Support', 'Property', and 'Taxes'. Below the navigation, there are links for 'News', 'Question & Answers', 'Links', 'Contact Us', 'Request IDN Copy', 'Report Terminations', 'Report Bonuses', and 'Pro-ration Calculator'. A 'Please note' section states that calculations are not saved and explains the Consumer Credit Protection Act (CCPA) limitations. A 'Step 1' section prompts users to enter support amounts for up to 5 cases, with fields for 'Current support amount' and 'Retroactive support and arrears' for each case, each with a '\$' input and a 'MONTHLY' dropdown menu.

The 'Report Terminations' form is displayed, featuring a navigation bar with 'Request IDN Copy', 'Report Terminations', 'Report Bonuses', and 'Pro-ration Calculator'. The form instructions state that asterisks (*) indicate required fields and that a 'Multiple Terminations worksheet' can be used for mass submissions. The 'Single employee information' section includes fields for 'Employer Company Name' (pre-filled with 'EASTLAKE OAKS COMMUNITY DEVELOPMENT DISTRICT'), 'Employee First Name', 'Employee Last Name', 'Employee SSN', 'Employee Case Number', and 'Employee Termination Date'. 'Submit' and 'Clear' buttons are provided. The 'Upload a file' section instructs users to download a 'Multiple Terminations worksheet' and upload it using the 'Upload File' button.

Enables employers to

- Report terminations online
- Report bonus information online
- Request Income Deduction Notices online
- Get pro-rated current support amounts using our calculator