

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

September 24, 2013

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9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
1.	Respectfully request approval of the minutes of the June 25, 2013, 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 rules: Compromise and Settlement: Clarify and update rules relating to the Department of Revenue's authority to compromise or settle tax assessments. [Rules 12.13.001, 12-13.003 (Repeal), 12-13.004, 12-13.0063 (New), 12-13.0064 (New), 12-13.007, 12-13.0075, 12.3008, 12-13.009, and 12-13.010] Consent Agreements: Specify how the Department of Revenue will maintain records of the positions authorized by the Executive Director to enter into consent agreements to extend the period during which an assessment may be issued or a claim for refund may be filed. [Rule 12-16.004, F.A.C.] Administration of Waste Tire Fee and Lead-Acid Battery Fee: Clarify and update the provisions relating to the administration of the waste tire fee and lead-acid battery fee imposed by sections 403.718 and 403.71.85, F.S., respectively. [Rules 12A-12.001 and 12A-12.0011, F.A.C.] (ATTACHMENT 2)	RECOMMEND APPROVAL

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

Time Payment Agreements: Update procedures used to enter into time payment agreements with taxpayers to resolve outstanding tax liability. [Rule Chapter 12-17, F.A.C.]

Tax Warrants and Post-Warrant Collections: Update procedures authorized by law to issue tax warrants and liens for delinquent taxes and to use other post-warrant methods authorized by law when other methods to collect delinquent taxes are unsuccessful. [Rule Chapter 12-21 and Rule 12A-1.090, F.A.C.]

(ATTACHMENT 3)

RECOMMEND APPROVAL

4. Respectfully request approval and authority to publish Notices of Proposed Rule in the Florida Administrative Register for rules relating to General Tax Administration. The proposed amendments reflect 2013 law changes, update forms, and remove obsolete provisions.

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

(ATTACHMENT 4)

RECOMMEND APPROVAL

5. Respectfully request approval and authority to publish Notices of Proposed Rule in the Florida Administrative Register for the following rules relating to Property Tax Oversight. The proposed amendments reflect recent law changes, update forms, address an administrative law decision, and remove unnecessary provisions.

Property Tax Oversight: Rules 12D-1.002, 12D-1.0025 (new), 12D-1.009, 12D-1.010, 12D-1.011 (repeal), 12D-6.006, 12D-7.0025 (new), 12D-7.0143, 12D-8.0065 (new), 12D-9.001, 12D-9.019, 12D-9.020, and 12D-16.002.

(ATTACHMENT 5)

RECOMMEND APPROVAL

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:

ELECTIONS CANVASSING COMMISSION
DIVISION OF BOND FINANCE
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
DEPARTMENT OF REVENUE
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before
THE FLORIDA CABINET, the Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03, The
Capitol, Tallahassee, Florida, on Tuesday, June 25,
2013, commencing at approximately 9:06 a.m.

Reported by:

MARY ALLEN NEEL
Registered Professional Reporter
Florida Professional Reporter
Notary Public

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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

ADAM PUTNAM
Commissioner of Agriculture

* * *

I N D E X

ELECTIONS CANVASSING COMMISSION
(Presented by KEN DETZNER)

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DIVISION OF BOND FINANCE
(Presented by BEN WATKINS)

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(Presented by HERSCHEL VINYARD)

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(Presented by MARSHALL STRANBURG)

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OFFICE OF INSURANCE REGULATION
(Presented by BELINDA MILLER)

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STATE BOARD OF ADMINISTRATION
(Presented by ASH WILLIAMS)

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P R O C E E D I N G S

(The agenda items commenced at 10:30 a.m.)

GOVERNOR SCOTT: All right. Now we're going to convene the meeting of the Elections Canvassing Commission.

MR. DETZNER: Good morning. I'm Ken Detzner, Florida Secretary of State. And it is 10:30 on Tuesday, June 25th, 2013, and I call to order the meeting of the Elections Canvassing Commission.

For the record, the Elections Canvassing Commission for the 2013 special general election for State House District Number 2 consists of The Honorable Rick Scott, Governor; The Honorable Pam Bondi, Attorney General; and The Honorable Jeff Atwater, Chief Financial Officer.

The purpose of this meeting is to certify the official results for Florida's 2013 special general election for State House District 2 held on June 12th, 2013. The Department of State has received and placed before you the official returns for that election. The official returns reflect that Mike Hill received the most votes in the special general election.

At this time, I would request that a member of the Commission make a motion to certify those

1 returns.

2 ATTORNEY GENERAL BONDI: So moved.

3 MR. DETZNER: Thank you, Attorney General

4 Bondi. Is there a second to the motion?

5 CFO ATWATER: Second.

6 MR. DETZNER: Second by CFO Atwater. All

7 those in favor say yea.

8 CFO ATWATER: Yea.

9 ATTORNEY GENERAL BONDI: Yea.

10 GOVERNOR SCOTT: Yea.

11 MR. DETZNER: The motion carries. I have the
12 official certificate -- Terry, if you would, please
13 -- of the Elections Canvassing Commission for the
14 2013 special general election, and would you please
15 affix your signatures where indicated.

16 (Signatures affixed to certificate.)

17 MR. DETZNER: Do the Commissioners have any
18 other business or questions at this time?

19 GOVERNOR SCOTT: None.

20 MR. DETZNER: If not, I thank you for your
21 time and adjourn the meeting of the Elections
22 Canvassing Commission. Thank you. Good morning.

23 GOVERNOR SCOTT: Thank you, Secretary.

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1 GOVERNOR SCOTT: Now I would like to recognize
2 Director Ben Watkins with the Division of Bond
3 Finance to present his agenda. Good morning.

4 MR. WATKINS: Good morning, Governor and
5 Cabinet members.

6 Item number 1 is approval of the minutes of
7 the April 23rd meeting.

8 GOVERNOR SCOTT: Is there a motion to approve?

9 ATTORNEY GENERAL BONDI: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 CFO ATWATER: Second.

12 GOVERNOR SCOTT: Any comments or objections?

13 (No audible response.)

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

16 MR. WATKINS: Item number 2 are two reports of
17 award. Item 2A is a report of award on the
18 competitive sale of \$183.1 million in Turnpike
19 refunding bonds. The bonds were sold at
20 competitive sale and awarded to the low bidder at a
21 true interest rate of approximately 1.85 percent.
22 That allowed us to reduce the interest rate on
23 outstanding bonds from 4.91 percent to the 1.85
24 percent, which will generate gross debt service
25 savings of approximate 46.3 million and present

1 value savings of 40.8 million, or 18.8 percent of
2 the principal amount of the bonds being refunded.

3 And item 2B is a report of competitive sale of
4 approximately 297.9 million in Public Education
5 Capital Outlay refunding bonds. The bonds were
6 awarded to the low bidder at a true interest cost
7 of approximately 2.99 percent. That allowed us to
8 reduce the interest rate on outstanding bonds from
9 4.88 percent to 2.99 percent, generating expected
10 debt service savings, gross debt service savings of
11 65.8 million, or on a present value basis,
12 48.9 million, or 15.2 percent of the principal
13 amount of the bonds being refunded.

14 So with those two transactions completed, for
15 the fiscal year, we've sold 10 refunding issues
16 aggregating about \$2 billion, generating gross debt
17 service savings of \$516 million, or on a present
18 value basis, 406 million.

19 GOVERNOR SCOTT: That's great.

20 MR. WATKINS: Lastly, item 3 is a resolution
21 authorizing the issuance and competitive sale of
22 245 million in Turnpike revenue refunding bonds.
23 And these bonds are also being authorized to and
24 refunded to achieve debt service savings.

25 GOVERNOR SCOTT: Is there a motion to approve

1 this item?

2 ATTORNEY GENERAL BONDI: So moved.

3 COMMISSIONER PUTNAM: Second.

4 GOVERNOR SCOTT: Any comments or objections?

5 (No audible response.)

6 GOVERNOR SCOTT: Hearing none, the motion
7 carries. Thank you, Ben.

8 MR. WATKINS: Thank you, sir.

9 GOVERNOR SCOTT: Ben, how much money have we
10 paid down on debt in the last -- since we were
11 inaugurated?

12 MR. WATKINS: Well, it's been \$3 billion over
13 the last two fiscal years, so that's the amount the
14 aggregate state debt outstanding overall has been
15 reduced.

16 GOVERNOR SCOTT: That's great.

17 MR. WATKINS: And about 3-1/2 billion over the
18 last three years.

19 GOVERNOR SCOTT: That's great.

20 Congratulations.

21 MR. WATKINS: Thank you, sir.

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1 GOVERNOR SCOTT: Now I would like to recognize
2 Secretary Herschel Vinyard with the Department of
3 Environmental Protection to present his agenda.
4 Good morning, Herschel.

5 MR. VINYARD: Good morning, Governor Scott,
6 General Bondi, CFO Atwater, and Commissioner
7 Putnam.

8 We only have one item on today's agenda. It's
9 the Spring Creek Oyster Company aquaculture lease.

10 Each one of y'all have been trying to help the
11 people in Franklin County, whose life is being
12 impacted by the lack of fresh water coming from
13 Georgia. And hopefully, this item will help the
14 folks in that county until we can come up with a
15 more permanent solution.

16 This item is a request to modify two existing
17 aquaculture leases in Alligator Harbor in Franklin
18 County. This will authorize the lessee, Leo
19 Lovell, for the use of the full water column. And
20 it's to allow him to cultivate oysters in floating
21 cages away from the traditional oyster predators.
22 No other terms of the lease will change.

23 Our first speaker is with Commissioner
24 Putnam's office. It's Kal Knickerbocker with the
25 Division of Aquaculture, and he's here to discuss

1 this new and innovative practice.

2 GOVERNOR SCOTT: Good morning.

3 MR. KNICKERBOCKER: Good morning, Governor
4 Scott and fellow Cabinet members.

5 As Secretary vineyard said, we have a request
6 this morning to modify an existing lease, two
7 leases, actually, in Alligator Harbor Aquaculture
8 Use Zone that's located in the Alligator Harbor
9 Aquatic Preserve just near the small community of
10 St. Teresa Beach in eastern Franklin County.

11 The request, it's a unique request. The
12 current lease conditions limit the use to the
13 bottom and the first six inches of the bottom. And
14 our applicant today has been testing for the last
15 couple of years, a year and a half, on different
16 shellfish husbandry practices to try and find a new
17 mousetrap, so to speak.

18 They've come upon some interesting dynamics in
19 the culture of oysters, primarily moving them off
20 the bottom in small, low-profile cages. They've
21 found that death loss has been almost eliminated.
22 Growth rates are phenomenal, much, much better than
23 what we're hearing every day in the wild.

24 We've heard nothing but issues with the wild
25 crop. High salinity is impacting them, predators,

1 parasites, diseases. They've found that moving up
2 off the bottom, many of those factors are being
3 eliminated. And so their request today is to be
4 able to utilize the full water column and let those
5 cages float from surface to bottom and try to
6 identify the ideal growth environment.

7 We think this is an excellent opportunity, may
8 be the first step forward in a new way of culturing
9 oysters here in Florida. It is practiced in other
10 parts of the United States and the world. And it's
11 a good first step.

12 The oyster industry is larger than many people
13 believe. It's about a \$138 million
14 landings-per-year business. Florida represents
15 about \$8.7 million of that. We think this step can
16 move Florida up that line, and we look for your
17 approval on this request.

18 I'm going to -- I would like to introduce Leo
19 Lovell. He's the owner of Spring Creek Oyster
20 Company. Leo and his two sons, Clay and Ben, are
21 the applicants on this item. And he'll share with
22 you some of the things that he has found. Thank
23 you.

24 GOVERNOR SCOTT: Thank you.

25 ATTORNEY GENERAL BONDI: Thank you.

1 GOVERNOR SCOTT: Good morning.

2 MR. LOVELL: Good morning. First I want to
3 thank the Governor and Cabinet for considering our
4 request. I want to thank Kal Knickerbocker and the
5 Department of Agriculture and Aquaculture for their
6 wonderful help and support on this project. And I
7 want to thank Jim Murdaugh and Bob Ballard with TCC
8 and their environmental institute, who have given
9 us great support and moral support in this. And I
10 also want to thank my two sons, Ben and Clay.
11 Without their hard work and dedication, we wouldn't
12 be here before you today.

13 And then I want to introduce some of the stars
14 of the show, really. These are some oysters that
15 we planted August the 22nd, 2012, in homemade cages
16 as an experiment. They were probably about this
17 big. We planted some directly on the bottom. That
18 didn't work too well. They kind of got smothered,
19 but then we got some of them off the bottom just a
20 little bit in cages. And these animals are 10
21 months old. I mean, it's phenomenal to us how fast
22 these creatures are growing.

23 ATTORNEY GENERAL BONDI: Excuse me, Governor.
24 May I ask a question?

25 GOVERNOR SCOTT: Yes.

1 ATTORNEY GENERAL BONDI: That's a 10-month-old
2 oyster, that huge one?

3 MR. LOVELL: Yes. Now, like I say, this is
4 all an experiment. We've got -- those are
5 10-month-old animals. Now, we've got some that
6 aren't this big. You know what I'm saying? They
7 haven't grown, but we have since in our research
8 have discovered why.

9 This is something else that's got us extremely
10 excited. This is a bay scallop. We've been
11 talking to our seed supplier about possibly
12 planting bay scallops and growing them in cages.
13 He has done restoration projects for the state.
14 They're down in Tampa.

15 Well, as soon as we started talking to him
16 about that, we bring out baskets of oysters back to
17 work them, and we start finding these animals which
18 have volunteered in with our oysters. And this --
19 you know, like I say, this has got us real excited
20 about perhaps that this is just one of maybe dozens
21 of other animals that we can grow in aquaculture.

22 And this was all done by the seat of our
23 pants. This was all an experiment. Then once we
24 planted -- because we got an opportunity to get
25 some oyster seeds just out of the blue, and we had

1 to either take them right then or leave them, and
2 we took them.

3 Since we have started researching how we
4 really need to grow oysters, talking to people from
5 Canada to Maryland to Maine to the West Coast, we
6 discovered that what they find so successful is
7 growing these animals in the top 24 inches of the
8 water column. That's where all your phytoplankton
9 is, all your algae, all the things that these
10 animals love to eat are. And I won't even go into
11 all the other advantages getting them off the
12 bottom gets them into.

13 And to quote you, Governor, from an interview
14 I saw a few months ago, you said, "If we want to
15 compete with the rest of the world, we've got to
16 level the playing field." Well, floating cages is
17 how Spain and Italy and Australia are growing their
18 animals. That's how they're doing it on the West
19 Coast. Canada, Massachusetts, and Maine, this is
20 what they're doing. And we're very excited. This
21 is going to be a new experiment when we start
22 floating these, but from what we can find out, it
23 will give a great advantage to what we're doing.

24 And we see -- we want to get this started in
25 Wakulla County, which is our home county.

1 Currently the only leases available are in Franklin
2 County where ours are. But we see this as the
3 opportunity to jump-start a whole new industry in
4 not only Wakulla and Franklin, but all the coastal
5 counties of Florida.

6 You know, we've been blessed for so many years
7 with such an abundance of wild stock, but as we all
8 know, something has changed and happened to that.
9 I think this is the future. I think with the
10 involvement of the institutes and aquaculture that
11 we can see hundreds of new jobs over the next few
12 years come out of this.

13 So I just -- again, I want to thank you for
14 your consideration. We look forward to maybe next
15 year bringing you back some other results that we
16 have grown, you know, in our top water cages.

17 GOVERNOR SCOTT: That's great.

18 COMMISSIONER PUTNAM: Don't bring those empty
19 shells next time.

20 MR. LOVELL: Y'all need to come down and eat
21 some. We started serving these animals in our
22 restaurant two weeks ago. I mean, and we had no
23 clue this was happening, but we planted -- as far
24 as we know, we're one of the first to plant,
25 cultivate, harvest, and sell an oyster in the state

1 of Florida.

2 And our customers are crazy about them.
3 They're so salty. When you open them up, they're
4 just snow white on the inside. I think we've got a
5 few folks in here that have eaten some.

6 But we just see it as an opportunity for
7 Florida and Wakulla County and Franklin County to
8 get back at the top in the seafood industry again.

9 GOVERNOR SCOTT: You want to advertise your --
10 you ought to advertise your restaurant while you're
11 doing it.

12 MR. LOVELL: Well, we own Spring Creek
13 Restaurant down on the coast. We've been there 36
14 years. So if y'all get a chance, come try some of
15 these animals.

16 COMMISSIONER PUTNAM: It's a special place,
17 Governor. I was devastated when the New York Times
18 put it in their travel section. It was good for
19 you, but bad for the rest of us.

20 MR. LOVELL: You know, we've gotten -- it's
21 crazy, the press we've gotten. We've been
22 contacted by Aquaculture magazine in western
23 Canada, the New York Times. I understand there
24 were some stories in the Miami Herald and the Tampa
25 Tribune. Everyone has kind of taken an interest in

1 this because it's something brand new.

2 Do y'all have any questions?

3 GOVERNOR SCOTT: Yes, Attorney General.

4 ATTORNEY GENERAL BONDI: I've been intrigued
5 by this technology, and I've been reading about it.
6 And now to see that 10-month-old oyster that size,
7 that's unbelievable. How much are the scallops --

8 MR. LOVELL: I would say 20 percent of our
9 oysters are probably up to that size and then
10 lower.

11 ATTORNEY GENERAL BONDI: And they're pure
12 because of the way they're grown.

13 MR. LOVELL: Yes. It's a whole different
14 animal. I mean, it doesn't even look like the
15 regular wild oyster that's evidently not growing
16 right now too well in Apalachicola. But we're
17 excited about it.

18 ATTORNEY GENERAL BONDI: Thank you for your
19 innovation.

20 MR. LOVELL: Uh-huh. You're welcome.

21 GOVERNOR SCOTT: Any other questions?

22 COMMISSIONER PUTNAM: Governor, I just want to
23 thank the Lovell family for their commitment to
24 doing new things. You know, that's the story of
25 agriculture, and it's the story of aquaculture.

1 You've got an old mullet boat in front of your
2 restaurant that's sort of a testimony to how things
3 change. And we've got to keep our working
4 waterfronts, and this is an example of -- we're not
5 taking our eye off the ball on saving the wild
6 oyster at all.

7 MR. LOVELL: Oh, no, sir.

8 COMMISSIONER PUTNAM: But this is an
9 opportunity for our country and our state to catch
10 up, because we're way behind the rest of the world
11 in aquaculture, and so I strongly urge this Cabinet
12 to adopt this lease. And our aquaculture folks may
13 be bringing future opportunities as we continue to
14 adapt and be aggressive at new ways to grow
15 aquaculture and keep our working waterfront jobs.

16 And I appreciate the team approach DEP has
17 brought to this and that FWC has brought to this to
18 work through the navigational issues and boating
19 issues and things that are inherent in doing
20 something new. But we're going to keep doing new
21 things, and we're going to keep pushing the
22 envelope to keep our watermen on the water and in a
23 fashion that they can feed their families.

24 MR. LOVELL: Yes, sir. It's a very -- I meant
25 to mention this earlier, but in talking with

1 different biologists and different -- my seed
2 suppliers and so forth -- these are oysters. When
3 they reach like an inch and a half long that we're
4 growing in these cages, they start producing spat.
5 In other words, not only will we be growing oysters
6 for the market in cages, but those oysters that
7 we're growing will be reseeding the wild stock.

8 And we currently have -- this sounds so crazy.
9 We have sent brood oysters from Apalachicola Bay to
10 the hatchery, and they're going to spawn -- these
11 are Tampa Bay oysters, but they're going to spawn
12 Apalachicola Bay oysters to send us back this fall
13 as the seed that we're going to plant. So it just
14 seems like such a win-win deal all the way around.

15 But again, I thank you for considering our
16 request.

17 COMMISSIONER PUTNAM: And we're moving
18 forward, Governor, also because of the legislation
19 that you signed, with the support of FWC and
20 Highway Safety, that allocates a certain portion of
21 boater revenues. We're going to commission the
22 National Academies of Science to develop a research
23 plan for all of us to live with as we try to save
24 Apalachicola Bay.

25 And it's an all-hands-on-deck effort to get

1 Georgia to do what they need to do and the Corps of
2 Engineers to do what they need to do. But this is
3 one example of some pretty neat technology and neat
4 new techniques that are going to allow us to keep
5 these jobs and continue to keep the seafood
6 industry in Florida.

7 MR. LOVELL: Yes, sir.

8 GOVERNOR SCOTT: All right. I think we have a
9 motion.

10 COMMISSIONER PUTNAM: I move. I so move.

11 GOVERNOR SCOTT: Is there a second?

12 ATTORNEY GENERAL BONDI: Second.

13 GOVERNOR SCOTT: Any comments or objections?

14 (No audible response.)

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

17 Thank you very much, and congratulations and
18 good luck.

19 MR. LOVELL: Thank you, sir.

20 GOVERNOR SCOTT: Thanks, Herschel.

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

4 MR. STRANBURG: Good morning, Governor Scott,
5 General Bondi, Commissioner Putnam, and CFO
6 Atwater.

7 Our first agenda item this morning is to
8 respectfully request approval of the minutes of the
9 April 2nd, 2013, and April 23rd, 2013 meetings.

10 GOVERNOR SCOTT: Is there a motion to approve?

11 CFO ATWATER: So moved.

12 GOVERNOR SCOTT: Is there a second?

13 ATTORNEY GENERAL BONDI: Second.

14 GOVERNOR SCOTT: Any comments or objections?

15 (No audible response.)

16 GOVERNOR SCOTT: Hearing none, the motion
17 carries.

18 MR. STRANBURG: Thank you. Our second item is
19 to respectfully request adoption of and approval to
20 file and certify with the Secretary of State under
21 Chapter 120, Florida Statutes, the following rules
22 with respect to documentary stamp tax, rules that
23 clarify the application of the documentary stamp
24 tax in bankruptcy proceedings. These are Rules
25 12B-4.013, 12B-4.014, and 12B-4.054.

1 GOVERNOR SCOTT: All right. Is there a motion
2 to approve?

3 CFO ATWATER: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 ATTORNEY GENERAL BONDI: Second.

6 GOVERNOR SCOTT: Any comments or objections?

7 (No audible response.)

8 GOVERNOR SCOTT: Hearing none, the motion
9 carries.

10 MR. STRANBURG: Thank you. And our third item
11 is to respectfully request approval and authority
12 to publish notice of proposed rules in the Florida
13 Administrative Register for the following rules.

14 The first area is compromise and settlement
15 rules. These rules will clarify and update rules
16 relating to the Department of Revenue's authority
17 to compromise and settle tax assessments.

18 The second area is with respect to consent
19 agreements. These rules will specify how the
20 Department of Revenue will maintain records of the
21 positions authorized by the executive director to
22 enter into consent agreements to extend the period
23 during which an assessment may be issued or a claim
24 for refund may be filed.

25 And the third area concerns the administration

1 of the waste tire and lead-acid battery fees.
2 These would update provisions relating to the
3 administration of these fees that are imposed by
4 the Florida Statutes.

5 GOVERNOR SCOTT: Is there a motion to approve?

6 ATTORNEY GENERAL BONDI: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 COMMISSIONER PUTNAM: Second.

9 GOVERNOR SCOTT: Any comments or objections?

10 (No audible response.)

11 GOVERNOR SCOTT: Hearing none, the motion
12 carries.

13 MR. STRANBURG: Thank you very much.

14 GOVERNOR SCOTT: Thank you, Marshall.

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1 GOVERNOR SCOTT: Now I would like to recognize
2 Belinda Miller, General Counsel of the Office of
3 Insurance Regulation. Good morning.

4 MS. MILLER: Good morning. Thank you,
5 Governor and members of the Financial Services
6 Commission. I'm here on behalf of Kevin McCarty,
7 who sends his regrets. He usually makes these
8 meetings, but he was called to a meeting that he
9 had to attend. So I am a poor substitute, but I'll
10 try to get through these items.

11 First I would like to ask for the minutes to
12 be approved from the March 7th board meeting, March
13 7th, 2013, of the Financial Services Commission.

14 GOVERNOR SCOTT: Is there a motion to approve?

15 CFO ATWATER: So moved.

16 GOVERNOR SCOTT: Is there a second?

17 ATTORNEY GENERAL BONDI: Second.

18 GOVERNOR SCOTT: Any comments or objections?

19 (No audible response.)

20 GOVERNOR SCOTT: Hearing none, the motion
21 carries.

22 MS. MILLER: Thank you. Next I would like to
23 request approval for publication of a rule for
24 amending Rule 690-137.001, which defines the annual
25 and quarterly reporting requirements for insurance

1 companies. The Office is proposing to amend this
2 rule to adopt the more current versions of the NAIC
3 annual and quarterly statement instructions and
4 manuals.

5 Section 624.424 of the Florida Statutes
6 requires insurers to file these statements with the
7 Office and allows the Office and the Financial
8 Services Commission to adopt rules setting
9 standards for these reports. This enables
10 companies to file one statement nationally and to
11 have all of the states use the same statement.

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

14 ATTORNEY GENERAL BONDI: So moved.

15 GOVERNOR SCOTT: Is there a second?

16 COMMISSIONER PUTNAM: Second.

17 GOVERNOR SCOTT: Any comments or objections?

18 (No audible response.)

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

21 MS. MILLER: Thank you. Next, I would request
22 approval for publication of the proposed amendments
23 to Rule 690-138.001, the NAIC Financial Condition
24 Examiners Handbook adopted. The Office is
25 proposing to amend this rule to adopt the NAIC 2013

1 Financial Condition Examiners Handbook.

2 Section 624.316 of the Florida Statutes
3 requires the Office to examine the financial
4 condition of insurance companies using generally
5 accepted accounting and auditing procedures. This
6 statute also allows the Office to adopt the NAIC
7 Financial Condition Examiners Handbook to
8 facilitate these exams. By adopting the newest
9 version of the handbook, the rule enables the
10 procedures used by the Office to be in line with
11 the accepted accounting principles.

12 GOVERNOR SCOTT: Is there a motion to approve?

13 ATTORNEY GENERAL BONDI: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 COMMISSIONER PUTNAM: Second.

16 GOVERNOR SCOTT: Any comments or objections?

17 (No audible response.)

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

20 MS. MILLER: Thank you. And finally, I would
21 like to request approval for publication of
22 proposed amendments to Rule 690-149.022. The
23 purpose of this rule is to develop a notice of
24 estimated premium impacts from the federal Patient
25 Protection and Affordable Care Act required by

1 Committee Substitute for Senate Bill 1842, which
2 amended Section 627.410, Florida Statutes. This
3 notice will be required to be sent to all
4 individual and small group nongrandfathered health
5 plans and to individuals insured by HMOs.

6 GOVERNOR SCOTT: Is there a motion to approve?

7 ATTORNEY GENERAL BONDI: So moved.

8 COMMISSIONER PUTNAM: So moved.

9 GOVERNOR SCOTT: Is there a second?

10 CFO ATWATER: Second.

11 GOVERNOR SCOTT: Any comments or objections?

12 (No audible response.)

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

15 MS. MILLER: Thank you. That concludes the
16 agenda for the Office of Insurance Regulation.

17 GOVERNOR SCOTT: Thank you, Belinda.

18 ATTORNEY GENERAL BONDI: And she was a very
19 good substitute.

20 GOVERNOR SCOTT: Yes. Good job.

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1 GOVERNOR SCOTT: Now I would like to recognize
2 Executive Director Ash Williams with the State
3 Board of Administration.

4 Good morning, Ash.

5 MR. WILLIAMS: Good morning, Governor and
6 Trustees. How is everyone today?

7 I would like to open as usual, if I may, with
8 an update on where the Fund is, or was as of last
9 night's close. With a balance standing at
10 \$130.7 billion, the Fund fiscal year to date is up
11 11.26 percent. That's 122 basis points ahead of
12 target.

13 If I may, I would like to move on with our
14 agenda at this point. Item 1, I would request
15 approval of the minutes of the April 23, 2013
16 meeting.

17 GOVERNOR SCOTT: Is there a motion to approve?

18 ATTORNEY GENERAL BONDI: So moved.

19 GOVERNOR SCOTT: Is there a second?

20 CFO ATWATER: Second.

21 GOVERNOR SCOTT: Comments or objections?

22 (No audible response.)

23 GOVERNOR SCOTT: Hearing none, the motion
24 carries.

25 MR. WILLIAMS: Thank you. Item 2, request

1 approval of a fiscal sufficiency of an amount not
2 exceeding \$245 million State of Florida Department
3 of Transportation Turnpike revenue bonds, Series
4 2013.

5 GOVERNOR SCOTT: Is there a motion to approve?

6 CFO ATWATER: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Any comments or objections?

10 (No audible response.)

11 GOVERNOR SCOTT: Hearing none, the motion
12 carries.

13 MR. WILLIAMS: Thank you. The next couple of
14 items are related to a meeting we had yesterday.
15 Each year in June we have a joint meeting of our
16 two investment-oriented advisory councils, the
17 Participant Local Government Advisory Council,
18 which advises us on Florida PRIME, and the
19 Investment Advisory Council, which provides more
20 broad investment guidance on all our mandates.

21 The statutory responsibilities that are
22 required to be executed annually by these two
23 groups include a review of legal compliance,
24 compliance with best practices, and also the
25 propriety of the investment policy statement.

1 That meeting took place yesterday. We have
2 Mark Peterson, who is the chairman of the
3 Participant Local Government Advisory Council, and
4 also Martin Garcia, chairman of the IAC, with us
5 today. Both are available to talk to you. And the
6 next couple of items relate to that.

7 So item 3 is the independent statutory
8 compliance review that was presented yesterday by
9 Lewis, Longman & Walker. And what we need to do
10 with item 3, I request approval of a draft letter
11 to the Joint Legislative Auditing Committee for the
12 annual certification of legal compliance and best
13 investment practices for the Local Government
14 Surplus Funds Trust Fund. And Hewitt EnnisKnupp
15 did the best practices certification, and they're
16 here this morning.

17 GOVERNOR SCOTT: Is there a motion to approve?

18 CFO ATWATER: So moved.

19 GOVERNOR SCOTT: Is there a second?

20 ATTORNEY GENERAL BONDI: Second.

21 GOVERNOR SCOTT: Any comments or objections?

22 (No audible response.)

23 GOVERNOR SCOTT: Hearing none, the motion
24 carries.

25 MR. WILLIAMS: Thank you. Item 4 also relates

1 to this. We request approval of investment policy
2 statements for the Local Government Surplus Funds
3 Trust Fund, now known as Florida PRIME, as required
4 under Florida Statutes, and also for the Fund B
5 Surplus Funds Trust Fund.

6 The only change we made in the investment
7 policy statement was to codify a previously
8 implemented improvement in operations that tightens
9 compliance between the SBA, our external master
10 custody provider, and the external investment
11 manager for Florida PRIME.

12 Request approval.

13 GOVERNOR SCOTT: Is there a motion to approve?

14 CFO ATWATER: So moved.

15 GOVERNOR SCOTT: Is there a second?

16 ATTORNEY GENERAL BONDI: Second.

17 GOVERNOR SCOTT: Any comments or objections?

18 (No audible response.)

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

21 MR. WILLIAMS: Thank you. Before I jump into
22 the other reports that we have, we have the
23 chairman of the IAC with us, and -- where is
24 Mr. Peterson? There he is. And the chairman of
25 the PLGAC.

1 Martin, would you like to come up?

2 GOVERNOR SCOTT: Good morning.

3 MR. GARCIA: Good morning, Trustees, Governor
4 Scott, General Bondi, and CFO Atwater. This is the
5 first opportunity as chairman that I have had an
6 opportunity to address you. And I would like to
7 tell you a little bit about the good work of the
8 nine members that the three of you have appointed
9 to the IAC, and I think you're going to be pleased
10 to learn about the work that we're doing.

11 I'm honored to serve with the other eight
12 members that you appointed to the IAC. And I've
13 been in the investment business for a long time and
14 have served on a number of investment advisory
15 councils, but I have to tell you, these
16 appointments of the other eight that you have made
17 to the IAC are incredibly impressive and well
18 qualified to do all of the things that you have
19 charged us with.

20 And specifically, you've charged us with
21 making sure that we're making good investment
22 decisions, evaluating the investment performance,
23 and making sure that there's good governance in
24 place. And as you've instructed us, we're doing
25 this on your behalf and advising you for the

1 benefit of state workers, police officers,
2 firefighters, and every one of the participants in
3 the plan. So the work that we're doing is serving
4 the masses in Florida.

5 And fundamentally what we do in advising you
6 is evaluate two of the main decisions that drive
7 investment performance for the Florida Retirement
8 System, and those two decisions are, one, how
9 assets get allocated between the asset classes,
10 which drives 90 percent of the performance. And
11 then the second decision is how assets get
12 allocated within the asset classes that drive about
13 10 percent of the performance. And I wanted to
14 report to you what the IAC is doing in advising you
15 on the 90 percent function.

16 The policy of the SBA is to review the
17 investment plan every three to five years, in other
18 words, review the decisions on how assets are being
19 allocated between asset classes. And we're on the
20 third year anniversary right now. The current --
21 and evaluating how you allocate between asset
22 classes is a long-term decision. It's something
23 that you do periodically and not on a short-term
24 basis. So we are at the third year anniversary,
25 because the current plan was constituted in June of

1 2010.

2 And what we are doing, which I'm told is
3 unparalleled for an IAC in terms of the time that
4 we're spending on it, we had a workshop in June
5 dedicated just to the subject. We spent almost the
6 entire meeting in June on the subject. Yesterday
7 virtually the entire meeting was dedicated to
8 evaluating the current plan. And our work is not
9 yet done. We're scheduled to meet another six
10 hours in September and dedicating all that time to
11 this.

12 So you all have not only appointed a very
13 well-qualified IAC, but one who is deeply engaged
14 in the important decisions that you've charged us
15 with.

16 And so that concludes my report. I do look
17 forward to reporting to you the comprehensive plan
18 in September. And unless you have any questions,
19 I'm done.

20 GOVERNOR SCOTT: Attorney General Bondi.

21 ATTORNEY GENERAL BONDI: You know, this is the
22 first time -- of course, I tapped my predecessor's
23 appointments, who were wonderful appointments to
24 the IAC, as well as my fellow members. However,
25 this is the first time we have an IAC that is

1 entirely recruited and appointed by the three of
2 us. And I've seen the work that these nine people
3 are doing, and thank you, Chairman Garcia. They're
4 working countless, countless hours. I mean, on
5 Sunday, I was briefed for hours and hours. Like I
6 said, they are just -- we have, I think, an amazing
7 group, as we did in the past, a very, very engaged
8 group. And I cannot thank all nine of you enough
9 for your dedication and service to our state.

10 This is what? \$155 billion?

11 MR. GARCIA: Correct.

12 ATTORNEY GENERAL BONDI: Thank you.

13 MR. GARCIA: Well, thank you for honoring me
14 with the service.

15 GOVERNOR SCOTT: Well, thank you for all that
16 you're doing, thank all nine members. Y'all do a
17 great job. It's a lot of hours, and the pay is not
18 very high.

19 MR. GARCIA: It's worth it, though.

20 GOVERNOR SCOTT: You're right. I mean, you're
21 doing it for the benefit of everybody that's
22 relying on that plan, for all those investments for
23 their retirement.

24 MR. GARCIA: Well, thank you.

25 GOVERNOR SCOTT: All right. Thank you.

1 MR. WILLIAMS: Thank you. And I might add, we
2 also have Will Harrell with us today, who is also
3 on the IAC.

4 And Mark Peterson, did you want to say
5 anything regarding the PLGAC?

6 MR. PETERSON: No, not unless there are any
7 questions.

8 MR. WILLIAMS: Questions for Mr. Peterson?

9 We also have Gary Price with us, who is a new
10 member of the PLGAC.

11 GOVERNOR SCOTT: From a great city. Where are
12 you from, Gary?

13 MR. PRICE: Naples, Florida.

14 GOVERNOR SCOTT: Oh, Naples. We don't get a
15 lot of people up here from Naples.

16 MR. WILLIAMS: Thank you.

17 Moving on, in item 5, if we could approve a
18 draft letter to the Joint Legislative Audit
19 Committee affirming that the SBA Trustees have
20 reviewed and approved the monthly Florida PRIME and
21 Fund B summary reports and actions taken, if any,
22 to address material impacts. As usual, there were
23 no material impacts.

24 GOVERNOR SCOTT: Is there a motion to approve?

25 ATTORNEY GENERAL BONDI: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 CFO ATWATER: Second.

3 GOVERNOR SCOTT: Any comments or objections?

4 (No audible response.)

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

7 MR. WILLIAMS: Thank you. Item 6, request
8 approval of the SBA quarterly report required by
9 the Protecting Florida's Investments Act. This is
10 the act relating to avoiding investment exposure to
11 Iran and Sudan. There were no changes relating to
12 Iran in this period. And those relating to Sudan
13 were confined to deleting two companies from the
14 "scrutinized" list and deleting a net of two
15 companies from the from the "continued examination"
16 list.

17 Request approval of the report.

18 GOVERNOR SCOTT: Is there a motion to approve?

19 ATTORNEY GENERAL BONDI: So moved.

20 GOVERNOR SCOTT: Is there a second?

21 CFO ATWATER: Second.

22 GOVERNOR SCOTT: Any comments or objections?

23 (No audible response.)

24 GOVERNOR SCOTT: Hearing none, the motion
25 carries.

1 MR. WILLIAMS: Thank you. Item 7, we get into
2 the quarterly reports for the quarter we're dealing
3 with here today. And in addition to the IAC and
4 PLGAC reports, we have a report from the Audit
5 Committee. Kimberly Ferrell, who chaired the
6 committee, is here. Kim, did you want to share
7 anything with the group?

8 MS. FERRELL: Yes.

9 MR. WILLIAMS: Thank you.

10 GOVERNOR SCOTT: Good morning.

11 MS. FERRELL: Good morning, Governor and
12 Trustees. Thank you for your time this morning. I
13 realize you are extremely busy, so I will be very
14 brief.

15 There is a detailed report that's found in
16 your packet that's found in Tab 7 behind the third
17 green divider. If there's anything presented there
18 that you would like more information on, please
19 don't hesitate to contact me. I'm available to you
20 at any time. But for this morning, I really just
21 prepared a very high-level overview for you.

22 There are currently 74 engagements that are in
23 progress at the SBA. And while that sounds like a
24 very large number, these include both projects that
25 are being conducted by the internal audit staff,

1 also engagements by external auditors in addition
2 to consultants.

3 These engagements range from -- anything from
4 compliance audits, financial statement audits,
5 agreed-upon procedures, debt compliance, reports on
6 internal controls. They also range in a multitude
7 of different focuses and scopes.

8 But really, the most important thing for you
9 to know about these is that for the last quarter,
10 all of the financial statement audits that were
11 completed received an unqualified opinion. And
12 that's what most people refer to as a clean
13 opinion, and that, of course, is exactly what we're
14 looking for.

15 Now, in addition, all of the agreed-up
16 procedures that were completed, none of those
17 resulted in any major findings. In addition,
18 there's no indication that these results won't
19 continue in the current quarter.

20 There were no -- in the internal audit area,
21 there were no significant deviations from the SBA's
22 audit plan. And that's if you evaluate it both in
23 terms of audit hours applied and completion dates
24 of the assignments.

25 Now, overall, there are only 32 open

1 recommendations. Those include recommendations
2 from both auditors and consultants. Again, only 32
3 that remain open, that is a very significant drop
4 from the prior quarter. That's actual a decrease
5 of 37 from prior.

6 And last but not least, in the enterprise risk
7 management area, for the quarter there were no
8 material compliance exceptions reported.

9 And that's all I have for you unless you have
10 some questions for me.

11 GOVERNOR SCOTT: Are there any questions?

12 (No audible reponse.)

13 GOVERNOR SCOTT: Thank you very much.

14 MS. FERRELL: Thank you.

15 MR. WILLIAMS: I think it goes without saying
16 our Audit Committee, like our other advisory
17 groups, the Audit Committee is more than an
18 advisory group. It is a very integral part of our
19 operation. They're doing a terrific job, and we're
20 grateful for their service.

21 Other key reports that I won't go over, but I
22 will draw your attention to, that are in your
23 background materials include our general counsel's
24 report, our corporate governance report. To give
25 you an idea of the scale of that operation, in the

1 proxy season ended, we voted roughly 9,500 proxies,
2 85,000-plus different issues in 75 countries around
3 the world. And every one of those is done in
4 accordance with some sort of policy, but is also
5 looked at individually and appropriate logic and
6 judgment used on it so that we don't blindly follow
7 policies or models or outside advisors.

8 We also have two other key oversight reports
9 in here, our inspector general's report and our
10 chief risk and compliance officer's report. And
11 I'm pleased to say that in both of those, you'll
12 find no evidence of any problems. And I would
13 particularly draw your attention to the compliance
14 and risk officer's report from the standpoint that
15 you have risk charts on every asset class and the
16 aggregate fund, and what you'll see is that we
17 pulled in risk pretty significantly across the
18 board on a range of fronts.

19 We also have -- let's see what else do we have
20 in here. We have -- why don't we go directly to
21 the performance, which is what really matters. We
22 have Kristin Doyle with us from Hewitt EnnisKnupp,
23 who is here to report on her residency status and
24 also on the performance of the pension fund.

25 GOVERNOR SCOTT: Yesterday Deutsche Bank added

1 -- announced they were adding 300 jobs in
2 investment banking, trading floor, all sorts of
3 operations. So we have all these jobs in Florida.
4 So where are you living?

5 MS. DOYLE: I live in Chicago.

6 GOVERNOR SCOTT: You know, they increased
7 their income tax rate to 70 percent in 2011.

8 MS. DOYLE: Well, I anticipated you might ask
9 me this, so the current answer is still no.
10 However, if I was living vicariously through one of
11 my best friends, I would have just moved to Palm
12 Harbor about a year ago, and I would be telling all
13 my Chicago friends that I'm probably never going to
14 move back to Chicago, I love my house, my pool, and
15 no personal income tax. So --

16 GOVERNOR SCOTT: You're still young. You
17 still have a shot.

18 MS. DOYLE: You're right. They are actively
19 recruiting all of us to move down here, so you have
20 someone helping out in that area.

21 So I'm just going to spend a couple of minutes
22 on performance of the major mandates for the
23 Florida State Board through March. So if you flip
24 a couple of pages, looking at the performance of
25 the FRS -- woops. Did I move too fast?

1 Well, I'll just -- hopefully it will come back
2 up. If you'll look at the performance of the FRS
3 Pension Plan, so this is the slide titled, "FRS
4 Pension Plan Investment Results, Periods Ending
5 3/31/2013," you'll see that the beige bar is the
6 FRS Pension Plan performance and the blue bar is
7 the performance benchmark, which is the passive
8 representation of the policy allocation. Over all
9 time periods show, one, three, five, ten, and
10 fifteen, you'll see that that performance has been
11 above that of the benchmark.

12 GOVERNOR SCOTT: Great.

13 MS. DOYLE: The second benchmark we show is
14 the absolute nominal target rate of return, which
15 is the inflation plus 5 percent return objective.
16 And you'll see that over most time periods,
17 performance has been strong as well relative to
18 that secondary benchmark.

19 And as we've talked in the past, that
20 benchmark is most relevant for the longer term time
21 periods, so if you look at the slide just following
22 that one, you'll see that over the last 20, 25, and
23 30 years, performance of the FRS has been extremely
24 strong relative to that real return objective, so
25 very good news for the performance of the pension.

1 We also look at performance relative to peers.
2 If you skip a couple of pages to the results
3 relative to the TUCS top ten defined benefit plans,
4 this is where we illustrate the performance of the
5 FRS Pension. This is on a gross basis,
6 gross-of-fee basis, because the TUCS universe
7 comparison survey data is on a gross-of-fee basis.
8 We want to compare apples to apples. And you'll
9 see that relative to the top ten median defined
10 benefit plans, performance has either been very
11 similar to your top ten peers or above that of your
12 peers, so again, very strong performance on a peer
13 basis.

14 I'll flip, if there aren't any questions, to
15 the investment plan, so if you could skip a couple
16 of pages to the total investment plan returns and
17 costs page on the investment plan, so this is the
18 defined contribution plan.

19 Performance through March has been very strong
20 as well relative to what we call the total plan
21 aggregate benchmark, which is again a passive
22 representation of the benchmarks of each of the
23 underlying fund options. So what this is
24 representing is that each of the underlying fund
25 options on an aggregate basis are outperforming

1 their benchmarks, which is what we would want to
2 see.

3 And then at the bottom, there is some peer
4 data. I'll just draw your attention to the second
5 column titled "Five-Year Net Value Added." And
6 there you'll see that the FRS Pension Plan over a
7 five-year period on an average basis has added 70
8 basis points over the aggregate benchmark, whereas
9 your peers have only added 10. So not only are you
10 outperforming your own benchmarks, but you're doing
11 it in a better -- you're doing better than your
12 peers.

13 Any questions on the investment plan? Okay.
14 The next one is the --

15 ATTORNEY GENERAL BONDI: Governor, could I ask
16 a quick question?

17 GOVERNOR SCOTT: Yes.

18 ATTORNEY GENERAL BONDI: Which peers?

19 MS. DOYLE: This is a survey from CEM, which
20 is -- it's a custom peer universe, and it's made up
21 of 19 DC plans, both corporate and public plans
22 between 2 and \$12 billion in size. So these are
23 very, very large corporate and public defined
24 contribution plans.

25 Okay. I think we have the wrong slide in

1 here. I apologize. But the Cat Fund investment
2 results are also similar to both the pension and
3 the investment plan returns in terms of
4 outperformance over all trailing periods relative
5 to the benchmark. Absolute returns have been a
6 little bit lower because of your short-term bond
7 funds, but their performance on a relative basis
8 has been strong.

9 And then the Lawton Chiles Endowment Fund,
10 here we show asset allocation relative to the
11 target, so you'll see the blue dot is actually the
12 -- is the actual allocation. You'll see an
13 underweight to global equity and an overweight to
14 cash. That's represented by the fact that there's
15 a special appropriation out of this fund, so the
16 SBA made the decision to move it to cash.

17 Regardless, performance has been very strong
18 over all trailing periods, again outperforming the
19 performance benchmark, the passive representation
20 of the policy over all the trailing periods.

21 And then lastly, the Florida PRIME. The
22 investment results have also been very strong for
23 the Florida PRIME. Again, this is a shorter term
24 bond fund, so managed very low risk. The
25 performance has been on an absolute basis low given

1 the low yielding environment that we're in, but on
2 an absolute basis has again outperformed its
3 performance benchmark, which is actually another
4 large peer universe of other local government
5 investment plans, and has outperformed that over
6 all trailing periods.

7 I guess I don't have the slide in here, but
8 one thing I wanted to point out, we do have a slide
9 where we compare the performance of the Florida
10 PRIME relative to other SEC-registered money market
11 funds. And what you'll notice is that on a
12 risk-return basis, the Florida PRIME fund is
13 actually being managed at a higher level of return
14 with a lower level of risk relative to other
15 SEC-registered money market funds.

16 And then lastly, in terms of Fund B, the
17 materials that you have note that through March,
18 88 percent of Fund B has been returned back to
19 participants. A more recent number through the end
20 of May or even through the first part of June is
21 about 93 percent, so we have about 7 percent left
22 to go. And there was a very comprehensive report
23 at the IAC/PLGAC meeting yesterday on the
24 management of Fund B.

25 Any questions on the performance?

1 MR. GARCIA: Kristen, you gave the performance
2 for the 20-, 25-, and 30-year for target nominal
3 rate of return for the FRS. I didn't hear the
4 15-year.

5 MS. DOYLE: The 15-year is slightly -- the FRS
6 Pension is slightly below that of the absolute
7 nominal target rate of return. The 15-year period
8 includes both the 2001-2002 tech bubble as well as
9 the 2008 time period, and so -- the global equity
10 markets obviously struggled over both of those time
11 periods, and so we see a little bit of a lower
12 return with the 15-year period relative to that
13 benchmark.

14 Thank you.

15 GOVERNOR SCOTT: Thank you.

16 MR. WILLIAMS: Thank you. So that covers
17 really all of our major mandates, and unless there
18 are any questions on any of those, I'll move ahead.

19 GOVERNOR SCOTT: All right. Thank you.

20 MR. WILLIAMS: Thank you. Item 8, on the
21 asset-liability and asset allocation review,
22 Chairman Garcia touched on that a bit already. And
23 yesterday, with extensive discussion, we concluded
24 to moving ahead with a couple of actions sooner
25 rather than later. We'll be coming back to you at

1 a subsequent meeting with some revisions to the
2 investment policy statement for the Florida
3 Retirement System Trust Fund.

4 We will draft those in accordance with the
5 discussion yesterday at the staff level, run them
6 back through the IAC, and then come to you at a
7 subsequent meeting after we have that done. My
8 guess is that we will do that on an interim basis
9 rather than wait for the September IAC meeting.
10 But essentially, I think that will put us in the
11 right place tactically in the short and
12 intermediate term. And as Martin pointed out,
13 we'll work on the bigger picture further in
14 September.

15 The high-level summary in the near term is
16 that our feeling that our current allocation is
17 about right. We have Roland Davis with us from
18 Hewitt EnnisKnupp if you would like to hear
19 anything further on that point from him.

20 GOVERNOR SCOTT: I'm fine. Do you all need
21 anything?

22 ATTORNEY GENERAL BONDI: No.

23 MR. WILLIAMS: All right. Very good. Then
24 the last item, item 9, is a request of approval for
25 the Florida State Board of Administration's

1 proposed budgets for fiscal 2013 and '14, which --
2 and these budgets cover the State Board of
3 Administration, the FRS Investment Plan, the
4 Florida Hurricane Catastrophe Fund, the Division of
5 Bond Finance, and the Florida Prepaid College
6 Board.

7 GOVERNOR SCOTT: Is there a motion to approve?

8 ATTORNEY GENERAL BONDI: So moved.

9 GOVERNOR SCOTT: Is there a second?

10 CFO ATWATER: Second.

11 GOVERNOR SCOTT: Any comments or objections?

12 (No audible response.)

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

15 MR. WILLIAMS: Thank you very much.

16 GOVERNOR SCOTT: Thank you, Ash.

17 This concludes our Cabinet meeting. Our next
18 meeting will be Tuesday, August 6th, at 9:00 a.m.

19 We are adjourned.

20 (Proceedings concluded at 11:23 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 50 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 9th day of July, 2013.

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ATTACHMENT 2



Executive
Director
Marshall Stranburg

September 24, 2013

MEMORANDUM

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

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

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

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

THRU: Marshall Stranburg, Executive Director

FROM: Andrea J. Moreland, Deputy Executive Director

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

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

The Department has reviewed the proposed rules for compliance with Sections 120.54(3)(b) and 120.541, F.S. The proposed rules will not likely have an adverse impact on small 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:

- Clarify and update rules affecting compromise or settlement of tax assessments (*Rule Chapter 12-13, F.A.C.*)
- Provide how the Department maintains records regarding those positions authorized to enter into consent agreements (*Rule 12-16.004, F.A.C.*)
- Clarify the administration of the fee imposed on motor vehicle tires and batteries under sections 403.718 and 403.7185, F.S. (*Rules 12A-12.001 and 12A-12.0011, F.A.C.*)

Compromise or Settlement of Tax, Penalty, or Interest

Why are the proposed rules necessary? Section 213.21(5), F.S., requires the Department to establish by rule guidelines and procedures for the compromise or settlement of tax, penalty, or interest. The rules are clarified and updated to reflect the following:

- The compromise of tax, penalty, and interest when a taxpayer fails to apply the appropriate bracket system when collecting sales tax. (*Section 212.12(14), F.S.*)
- The compromise of interest when the Department determines that a delay in determination of the amount due is attributable to the action or inaction of the Department. (*Section 213.21(3)(a), F.S.*)
- The compromise of penalty when the taxpayer failed to collect sales tax based on a good faith belief that the tax was not due. (*Section 213.21(9), F.S.*)
- The compromise of penalties imposed for failure to timely file a sales tax return, or to timely pay tax due with a return. (*Section 213.21(10), F.S.*)
- The imposition of a specific penalty on transactions when the purchaser would have been eligible to make tax-exempt purchases but failed to register or to obtain a consumer's certificate of exemption. This penalty is imposed in lieu of the tax, penalty, and interest otherwise due on the transactions. (*Section 212.07(9), F.S.*)
- The manner in which the Department will maintain records of the positions authorized by the Executive Director to enter into closing agreements for the compromise or settlement of taxes, penalties, and interest.

What do these proposed rules do? The proposed amendments provide guidelines and procedures for additional compromise or settlement authority. In addition, to ease the burden on taxpayers, the proposed rules limit the conditions for which a taxpayer must submit a written request to receive a compromise or settlement. (*Rule Chapter 12-13, F.A.C.*)

Positions Authorized to Enter Into Consent Agreements

Why are the proposed rules necessary? Section 213.23, F.S., authorizes the Executive Director of the Department to designate positions within the Department that may enter into consent agreements with a taxpayer to extend the period during which an assessment may be issued or a claim for refund may be filed. This rule change is necessary to provide how the Executive Director of the Department will designate positions authorized to enter into consent agreements and where the records for designated positions are maintained. (*Rule 12-16.004, F.A.C.*)

What do the proposed rules do? The proposed amendments provide how the Department maintains records of those positions authorized by the Executive Director of the Department to enter into consent agreements.

Administration of Waste Tire Fee and Lead-Acid Battery Fee

Why are the proposed rules necessary? Florida law imposes a fee on persons who sell at retail new motor vehicle tires and a fee on persons who sell at retail new or remanufactured lead-acid batteries. The Department has received numerous questions regarding the application of the new tire fee to tires used on various types of vehicles and whether various types of lead-acid batteries are subject to the battery fee. These rule changes are needed to clarify the definition of “motor vehicle” for purposes of the new tire fee, provide examples of various types of vehicles, to clarify the definitions of “new lead-acid battery” and “remanufactured lead-acid battery,” and to reorganize the rules to improve readability and to simplify the provisions of the rules. (*Rules 12A-12.001 and 12A-12.0011, F.A.C.*)

What do the proposed rules do? The proposed amendments provide that tires used on racing vehicles that are not operated on Florida highways are not subject to the new tire fee, clarify definitions of the terms “motor vehicle,” “new lead-acid battery,” and “remanufactured lead-acid battery” for purposes of the fees; and reorganize and simplify the rules.

Were comments received from external parties? A rule development workshop was scheduled for August 8, 2012, if requested. No request was received to hold the scheduled workshop. On June 25, 2013, the Governor and Cabinet approved the Department’s request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was scheduled for July 31, 2013, if requested. No request was received to hold the scheduled hearing. No comments have been received by 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

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-13, FLORIDA ADMINISTRATIVE CODE
COMPROMISE AND SETTLEMENT
AMENDING RULES 12-13.001, 12-13.004, 12-13.007,
12-13.0075, 12-13.008, 12-13.009, AND 12-13.010
REPEALING RULE 12-13.003
CREATING RULES 12-13.0063 AND 12-13.0064

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-13.001, F.A.C. (Scope of Rules), provide that the rule chapter, as amended, includes provisions for the settlement or compromise of outstanding liabilities for tax, penalty, interest, and services fees, as provided in Sections 212.07(9), 212.12(14), 213.21, 213.24(3), and 215.34, F.S.

The proposed repeal of Rule 12-13.003, F.A.C. (Request for Settlement or Compromise), removes provisions regarding a taxpayer's request for settlement or compromise that are redundant of Rule 12-13.008, F.A.C. (Procedures for Compromise and Settlement of Taxes, Interest, and Penalties), as amended, and removes unnecessary provisions regarding requests for settlement or compromise that are not submitted to the Department in writing.

The proposed amendments to Rule 12-13.004, F.A.C. (Delegation of Authority to Determine Settlements or Compromises), provide that delegations of authority authorized pursuant to Section 213.21, F.S., by the Executive Director of the Department to settle or compromise a taxpayer's assessment will be in writing, signed by the Executive Director, and

maintained by the agency clerk in the Office of the General Counsel.

The creation of Rule 12-13.0063 (Grounds for Finding Department Delay in the Determination of an Amount Due), includes the provisions of Section 213.21(3)(a), F.S., and provides when the Department will compromise interest to the extent that the delay in determining an amount due is attributable to the action or inaction of the Department.

The creation of Rule 12-13.0064 (Relief for Inadvertent Sales and Use Tax Registration Errors), provides, consistent with the provisions of Section 212.07(9), F.S., when a vendor or purchaser qualifies to pay a mandatory penalty instead of the taxes, penalties, and interest that would otherwise be due on transactions for which the purchaser did not pay tax to the vendor. The failure to pay the tax to the vendor must be based on a good faith belief that the transaction was a tax-exempt purchase for resale or was a tax-exempt purchase by a tax-exempt organization.

The proposed amendments to Rule 12-13.007, F.A.C. (Grounds for Reasonable Cause for Compromise of Penalties), remove: (1) a reference rendered obsolete by the proposed amendments to Rule 12-13.004, F.A.C.; and (2) requirements for taxpayers to submit the facts and circumstances of the exercise of ordinary care and prudence to the Department in writing, allowing the Department to document the facts and circumstances of the exercise of ordinary care and prudence by the taxpayer in the Department's records.

The proposed amendments to Rule 12-13.0075, F.A.C. (Guidelines for Determining Amount of Compromise): (1) provide when the Department is authorized under Section 213.21(10), F.S., to compromise sales tax penalties for failure to file a complete and accurate return, or for failure to timely pay the tax due on a return, when the taxpayer has one noncompliant filing event in the preceding 12-month period; (2) provide when the Department is

authorized under Section 213.21(9), F.S., to settle or compromise any penalty imposed under Section 212.12, F.S., for failure to collect based on a good faith belief that the tax, surtax, or surcharge was not due; (3) provide when a dealer will not be held liable for tax, penalty, or interest under Section 212.12(14), F.S., when the dealer failed to apply the appropriate tax bracket system when collecting sales tax; (4) provide when the administrative collection processing fee imposed under Section 213.24(3), F.S., may be waived due to extraordinary circumstances; (5) provide when the service fee for returned payments imposed by Section 215.34(2), F.S., will be compromised for unintentional errors by the taxpayer, the financial institution, or the Department; (7) clarify that the Department will compromise all penalties when payment of delinquent tax and interest results from voluntary, written self-disclosure; and (8) remove provisions redundant of Rule 12-13.007(9), F.A.C.

The proposed amendments to Rule 12-13.008, F.A.C. (Procedures for Compromise and Settlement of Taxes, Interest, and Penalties), provide that a taxpayer will only be required to submit a written request for compromise or settlement of outstanding liabilities for tax, penalty, interest, or service fees when: (1) the request to settle or compromise is for an amount greater than \$30,000; (2) the complexity of the issues involved requires that the taxpayer submit a written request to explain the issues; or, (3) the taxpayer asks to submit the request in writing. Department employees authorized to settle or compromise such outstanding liabilities continue to be required to document the facts and circumstances of the settlement or compromise in the Department's records.

The proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements): (1) remove provisions regarding the delegation of authority by the Executive Director of the Department that are unnecessary; and (2) remove the incorporation, by reference, of Form DR-812, Closing

Agreement, which does not meet the definition of a “rule,” as provided in Section 120.52(16), F.S., and is not required to be adopted as a rule.

The proposed amendments to Rule 12-13.010, F.A.C. (Special Provisions Applicable to Compromise of Estate Taxes), remove provisions regarding the delegation of authority by the Executive Director of the Department that are unnecessary.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12-13, F.A.C. (Compromise and Settlement), are necessary to: (1) update provisions for administering the Department’s authority to compromise or settle outstanding liabilities for tax, penalty, interest, and services fees granted in Sections 212.07(9), 212.12(14), 213.21, 213.24(3), and 215.34(2), F.S.; (2) remove the requirement that a taxpayer’s written request be required for the Department to settle or compromise such outstanding liabilities; and (3) remove unnecessary or redundant 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. 2891 - 2893), to advise the public of the proposed changes to Rule Chapter 12-13, F.A.C. (Compromise and Settlement), 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.

After further review of provisions regarding delegations of authority issued by the Executive Director of the Department, the proposed amendments to Rule 12-17.004, F.A.C. (Delegation of Authority) were revised to provide that the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into stipulated time payment agreements and that any such delegation will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

SUMMARY OF PUBLIC HEARING

HELD ON JUNE 25, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on June 25, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12-13, F.A.C. (Compromise and Settlement). A notice for the public hearing was published in the Florida Administrative Register on June 12, 2013 (Vol. 39, No. 114, pp. 3004-3005).

SUMMARY OF RULE HEARING

JULY 31, 2013

A Notice of Proposed Rule published in the Florida Administrative Register on July 3, 2013 (Vol. 39, No. 129, pp. 3350-3359), to advise the public of the proposed changes to Rule Chapter 12-13, F.A.C. (Compromise and Settlement), and to provide that, if requested, a rule

hearing would be held on July 31, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-13, FLORIDA ADMINISTRATIVE CODE
COMPROMISE AND SETTLEMENT
AMENDING RULES 12-13.001, 12-13.004, 12-13.007,
12-13.0075, 12-13.008, 12-13.009, AND 12-13.010
REPEALING RULE 12-13.003
CREATING RULES 12-13.0063 AND 12-13.0064

12-13.001 Scope of Rules. The rules set forth in this chapter shall be used by the Executive Director or the Executive Director's designee, as set forth hereinafter, in the exercise of the authority to settle and compromise liability for tax, interest, ~~and penalty~~, and service fees granted by Sections 212.07(9), 212.12(14), Section 213.21, 213.24(3), and 215.34(2), F.S. However, special provisions applicable to settlement and compromise of estate taxes, interest, and penalty imposed pursuant to Chapter 198, F.S., are set forth in Rule 12-13.010, F.A.C. Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS. Law Implemented 212.07(9), 212.12(14), 213.05, 213.21, 213.24(3), 215.34(2) FS. History—New 5-23-89, Amended 8-10-92, 10-2-01,_____.

12-13.003 Request for Settlement or Compromise.

~~(1) Subsections 213.21(2)(a) and (3), F.S., authorize the Executive Director, or the Executive Director's designee, to enter into closing agreements settling or compromising a liability for tax, interest, or penalty under any of the chapters specified in Section 72.011(1), F.S.~~

~~(2)(a) No tax, interest, penalty, or service fee shall be compromised or settled unless the taxpayer first submits a request to compromise or settle tax, interest, penalty, or service fees.~~

~~Such request must be in writing if:~~

- ~~1. The amount requested to be compromised is greater than \$30,000; or~~
- ~~2. The taxpayer asks to submit the request in writing; or~~
- ~~3. The complexity of the issue(s) involved requires that the taxpayer submit a written request that explains the issue(s).~~

~~(b) The Department will accept a taxpayer's oral or electronic request for compromise or settlement, if:~~

- ~~1. The request for a compromise is for an amount less than or equal to \$30,000; and~~
- ~~2. The request is not subject to either of the criteria discussed in subparagraph 2. or 3. of paragraph (a) of this subsection.~~

~~(c) The taxpayer must establish in his or her request:~~

~~1. In regard to tax or interest, doubt as to the taxpayer's liability for tax or interest, or actual lack of collectibility of the tax or interest as demonstrated to the satisfaction of the Department by audited financial statements or other suitable evidence acceptable to the Department. Grounds for finding doubt as to liability and doubt as to collectibility, respectively, are set forth in further detail in Rules 12-13.005 and 12-13.006, F.A.C.~~

~~2. In regard to penalty, that the noncompliance was due to reasonable cause and not to willful negligence, willful neglect, or fraud. The taxpayer shall be required to set forth the facts and circumstances which support the taxpayer's basis for compromise and which demonstrate the existence of reasonable cause for compromise of the penalty or service fee and such other information as may be required by the Department.~~

~~3. In regard to the service fee, when a financial institution error results in a draft, order, or check being returned to the Department, the taxpayer will be required to submit to the Department a written statement from the financial institution. The written statement must give the detail of the error(s) and explain why the financial institution was at fault. The statement must be on the financial institution's letterhead.~~

~~4. Grounds for finding reasonable cause are set forth in further detail in Rule 12-13.007, F.A.C.~~

~~Rulemaking Authority 20.05(5), 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21(2)(a), (3), (5) FS. History-New 5-23-89, Amended 8-10-92, 11-15-94, 10-2-01, Repealed _____.~~

12-13.004 Delegation of Authority to Determine Settlements or Compromises.

(1)(a) Authority to settle and compromise tax, interest, and penalty liabilities, and requests for refunds has, in addition to the statutory authorization in Section 213.21, F.S., been delegated to the Executive Director of the Department by the Governor and Cabinet as the head of the Department, pursuant to Rule 12-3.007, F.A.C.

(b) The Executive Director is authorized to settle and compromise tax, interest, and penalty, and refund requests in all matters in litigation, including litigation pursuant to Section 72.011, F.S.

(c) In all other instances, the Executive Director is authorized to settle and compromise tax, interest, and penalty, and refund requests where the amount of tax compromised is \$250,000 or less. Any tax compromise of more than \$250,000, excepting only those cases in litigation or those cases in which a taxpayer has reasonably relied on a written determination issued by the

Department, must be approved by the Governor and Cabinet, as the head of the Department.

~~(2) Cases in Litigation.~~

~~(a) Authority is delegated to the Deputy Executive Directors, the General Counsel, and the Deputy General Counsel of the Department to settle and compromise tax, interest, or penalty in cases where a tax matter is in litigation pursuant to Section 72.011, F.S.~~

~~(b) Authority is delegated to any Assistant General Counsel to settle and compromise tax or interest of \$62,500 or less and penalty of \$125,000 or less.~~

~~(3) Cases in Protest. In cases involving a tax matter in protest, authority to settle and compromise is delegated as follows:~~

~~(a) For compromise of amounts of tax of \$250,000 or less, and compromise of interest and penalty in any amount, to the Deputy Executive Directors, the General Counsel, and the Deputy General Counsel.~~

~~(b) For compromise of amounts of tax or interest of \$62,500 each or less and of penalty of \$250,000 or less to any Assistant General Counsel.~~

~~(c) For compromise of the following amounts of tax, interest, or penalty to the Office of Technical Assistance and Dispute Resolution and the General Tax Administration Program:~~

Positions	Tax	Interest	Penalty
Technical Assistance and Dispute Resolution			
Director	\$125,000	\$125,000	Any Amount
Deputy Director	\$125,000	\$125,000	Any Amount
Revenue Program Administrators I and II	\$ 62,500	\$ 62,500	\$250,000
Senior Attorneys	\$ 12,500	\$ 12,500	\$ 75,000

Attorneys	\$ 12,500	\$ 12,500	\$ 75,000
Tax Law Specialists	\$ 12,500	\$ 12,500	\$ 75,000
Senior Tax Specialists	\$ 12,500	\$ 12,500	\$ 75,000
General Tax Administration Program			
Program Director	\$125,000	\$125,000	Any Amount
Deputy Program Director	\$125,000	\$125,000	Any Amount
Regional Managers	\$ 62,500	\$ 62,500	\$250,000
Service Center Managers	\$ 1,250	\$ 1,250	\$ 75,000
Tax Audit Supervisors	-0-	-0-	\$ 37,500
Tax Specialists	-0-	-0-	\$ 3,750
Revenue Specialist	-0-	-0-	\$ 3,750
Taxpayer Services Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Revenue Program Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Tax Specialist Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Revenue Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Revenue Managers	\$ 1,250	\$ 1,250	\$ 12,500
Compliance Support Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000

Revenue Program Administrators	\$ 12,500	\$ 12,500	\$ 75,000
Tax Law Specialists	\$ 12,500	\$ 12,500	\$ 75,000
Senior Tax Specialists	\$ 12,500	\$ 12,500	\$ 75,000
Government Analysts II	\$ 12,500	\$ 12,500	\$ 75,000

(4) ~~Collection Cases. In cases involving a tax matter related to billings or assessments that have been referred for collection, authority to settle and compromise is delegated as follows:~~

(a) ~~For compromise of amounts of tax of \$250,000 or less, and compromise of interest and penalty in any amount, to the Deputy Executive Directors, the General Counsel, and the Deputy General Counsel.~~

(b) ~~For compromise of amounts of tax or interest of \$25,000 each or less and penalty of \$62,500 or less, to any Assistant General Counsel.~~

(c) ~~For compromise of the following amounts of tax, interest, or penalty to the General Tax Administration Program:~~

Positions	Tax	Interest	Penalty
General Tax Administration Program			
Program Director	\$125,000	\$125,000	Any Amount
Deputy Program Director	\$125,000	\$125,000	Any Amount
Regional Managers	\$ 62,500	\$ 62,500	\$250,000
Service Center Managers	\$ 1,250	\$ 1,250	\$ 75,000
Revenue Administrators	\$ 1,250	\$ 1,250	\$ 12,500
Tax Specialists	\$ 1,250	\$ 1,250	\$ 12,500

Tax Audit Supervisors	0	0	\$ 37,500
Revenue Specialists	0	0	\$ 3,750
Taxpayer Services Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Revenue Program Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Revenue Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Tax Specialist Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Revenue Managers	\$ 1,250	\$ 1,250	\$ 12,500
Tax Specialists	0	0	\$ 12,500
Revenue Specialists	0	0	\$ 3,750
Compliance Support Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Revenue Program Administrators	\$ 12,500	\$ 12,500	\$ 75,000
Returns and Revenue Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Tax Specialist Administrators	\$ 2,500	\$ 2,500	\$ 75,000
Revenue Manager	\$ 1,250	\$ 1,250	\$ 12,500
Revenue Specialists	0	0	\$ 3,750

~~(5) Audit Cases. In cases involving an audit of the taxpayer, or an audit conducted pursuant to a refund request, prior to initiation of litigation pursuant to Section 72.011, F.S., or expiration of the period for initiating same, or upon initial receipt of a protest involving penalty issues only, authority to settle and compromise is delegated as follows:~~

~~(a) For compromise of amounts of tax of \$250,000 or less, and compromise of interest or penalty in any amount, to the Deputy Executive Directors, the General Counsel, and the Deputy General Counsel.~~

~~(b) For compromise of amounts of tax or interest of \$125,000 each or less and penalty in any amount, to the Program Director and Deputy Program Director in the General Tax Administration Program.~~

~~(c) For compromise of the following amounts of tax, interest, or penalty to the General Tax Administration Program:~~

Positions	Tax	Interest	Penalty
General Tax Administration Program			
Program Director	\$125,000	\$125,000	Any Amount
Deputy Program Director	\$125,000	\$125,000	Any Amount
Regional Managers	\$ 62,500	\$ 62,500	\$250,000
Service Center Managers	\$ 1,250	\$ 1,250	\$ 75,000
Senior Tax Audit Administrators	\$ 1,250	\$ 1,250	\$ 75,000
Revenue Administrators	\$ 1,250	\$ 1,250	\$ 12,500
Tax Audit Supervisors	-0-	-0-	\$ 37,500
Tax Specialists	-0-	-0-	\$ 3,750

Revenue Specialist	0	0	\$ 3,750
Taxpayer Services Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Compliance Support Process			
Process Manager	\$ 62,500	\$ 62,500	\$250,000
Revenue Program Administrators	\$ 12,500	\$ 12,500	\$ 75,000
Tax Law Specialists	\$ 1,250	\$ 1,250	\$ 37,500
Senior Tax Specialists	\$ 1,250	\$ 1,250	\$ 37,500
Government Analysts II	\$ 1,250	\$ 1,250	\$ 37,500

(6) Refund Cases. In cases involving refund requests that have not been referred for audit, prior to initiation of litigation pursuant to Section 72.011, F.S., or prior to expiration of the period for initiating same, authority to settle and compromise is delegated as follows to the Office of General Counsel and to the General Tax Administration Program:

Positions	Tax	Interest	Penalty
Office of General Counsel			
General Counsel	\$250,000	Any Amount	Any Amount
Deputy General Counsel	\$250,000	Any Amount	Any Amount
General Tax Administration Program			
Program Director	-0-	-0-	Any Amount
Deputy Program Director	-0-	-0-	Any Amount
Refunds and Revenue Distribution Process			
Process Manager	-0-	-0-	\$100,000
Senior Tax Audit Administrator	-0-	-0-	\$ 30,000
Tax Audit Supervisors	-0-	-0-	\$ 5,000

~~(7) In all other circumstances not previously described in this rule, authority to settle and compromise tax in amounts of \$250,000 or less and interest and penalty in any amount is delegated to the Deputy Executive Directors, the General Counsel, and the Deputy General Counsel.~~

~~(2)(8)(a) When the Executive Director delegates authority to settle and compromise to specific employees or positions, as authorized by Section 213.21, F.S., that are not provided in this rule, the delegation will be in writing, signed by the Executive executive Director, and will~~

~~be on a temporary basis pursuant to the following circumstances:~~

~~1. The issue assigned to the employee exceeds the monetary amount the employee is currently authorized to settle or compromise pursuant to this rule; or~~

~~2. The employee has assumed the duties of another employee who has authority, or a higher authority, to settle or compromise tax, interest, and penalty, and refund requests.~~

~~(b) A temporary delegation of authority to any employee or position will be for a specified time period of no more than 2 years.~~

~~(c) Such delegations cannot grant authority to compromise tax in excess of \$250,000.~~

~~(d) Copies of written delegations of authority are maintained on file with the agency clerk in the Office of General Counsel.~~

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 10-24-96, 10-2-01, 10-4-04, 9-13-10,_____.

12-13.0063 Grounds for Finding Department Delay in the Determination of an Amount Due.

(1)(a) A taxpayer's liability for interest associated in any of the chapters specified in Section 72.011 (1), F.S., will be settled or compromised, in whole or in part, to the extent that the Department finds that the delay in the determination of an amount due is attributable to the action or inaction of the Department.

(b) Only the portion of interest due that is attributable to the Department's delay will be compromised. The compromises of interest will be made by the Executive Director or the Executive Director's designee, in accordance with Rule 12-13.004, F.A.C., upon a determination that sufficient grounds exist to support a compromise or settlement.

(2) The compromise authority under this rule only arises if the Department has initiated an audit or inquiry documented in writing, and only to the interest that accrues if there is undue delay by the Department in pursuing the audit or inquiry. The taxpayer is not entitled to a compromise of interest based on the fact that the Department did not initiate an audit or inquiry at an earlier date.

(3) This provision does not apply when the delay is attributable to action or inaction on the part of the taxpayer such as:

(a) Failure to produce adequate records;

(b) Requests for extensions of time for the convenience of the taxpayer; or

(c) Failure to timely respond to the Department's requests for information.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.015(18),

213.21(3)(a) F.S. History-New _____ .

12-13.0064 Relief for Inadvertent Sales and Use Tax Registration Errors.

(1) A vendor or purchaser will not be held liable for the tax, interest, or penalty that would otherwise be due when:

(a) The purchaser did not pay to the vendor tax due on a taxable transaction based on a good faith belief that the transaction was a nontaxable purchase for resale or the transaction was exempt as a purchase by a tax-exempt organization; and,

(b) Instead of the taxes, penalties, and interest that would otherwise be due, the purchaser pays the mandatory penalties.

(2) To qualify, the purchaser must meet all of the following conditions:

(a) At the time of purchase, the purchaser was not registered as a dealer or did not hold a

valid Florida Consumer's Certificate of Exemption issued by the Department;

(b) At the time of purchase, the purchaser was qualified to be registered with the Department as a dealer or was entitled to obtain a Florida Consumer's Certificate of Exemption;

(c) Before requesting application of the provisions of this subsection, the purchaser has registered as a dealer or has obtained a valid Florida Consumer's Certificate of Exemption;

(d) The transaction would otherwise qualify as a tax-exempt sale to the purchaser for resale or as a tax-exempt sale to an organization holding a valid Florida Consumer's Certificate of Exemption, except that the purchaser was not registered as a dealer or did not hold a valid Florida Consumer's Certificate of Exemption at the time of purchase; and

(e) The purchaser establishes justifiable cause for failure to register as a dealer or to obtain a Florida Consumer's Certificate of Exemption before making the purchase.

(3) The establishment of justifiable cause is demonstrated by such factors as:

(a) The complexity of the transaction;

(b) The purchaser's business experience and history;

(c) Whether the purchaser sought advice on its tax obligations, and whether the advice was followed; or,

(d) Any remedial action taken by the purchaser.

(4) The purchaser or vendor must apply for relief:

1. Before the Department has initiated an audit or other action or inquiry; or

2. If any audit or other action or inquiry has been initiated, within seven days after being informed in writing by the Department that the purchaser was required to be registered with the Department or to obtain a Florida Consumer's Certificate of Exemption.

(5) Instead of tax, penalties, and interest that would otherwise have been due on

transactions, one of the following penalties must be paid by either the vendor or the purchaser when the purchaser or vendor:

(a) Applies for relief before an audit or other action or inquiry has been initiated by the Department, a mandatory penalty in the amount of the lesser of \$1,000 or 10 percent of the total tax due on qualifying transactions; or,

(b) Applies for relief after an audit or other action or inquiry has been initiated by the Department, a mandatory penalty in the amount of the lesser of \$5,000 or 20 percent of the total tax due on qualifying transactions.

(6) When tax, penalty, or interest have been waived under the provisions of this rule, any subsequent retail sale of any taxable item or service is subject to tax, plus any applicable penalties, interest, or service fees.

Rulemaking Authority 213.06(1), 212.07(9)(c) FS. Law Implemented 212.07(9), 213.015(20) F.S. History-New _____.

12-13.007 Grounds for Reasonable Cause for Compromise of Penalties.

(1)~~(a)~~ The Executive Director or the Executive Director's designee, ~~as enumerated in Rule 12-13.004, F.A.C.,~~ will make a determination of whether the taxpayer's noncompliance was due to reasonable cause and not to willful negligence, willful neglect, or fraud based on the facts and circumstances of the specific case. The standard used in this determination ~~is~~ shall be whether the taxpayer exercised ordinary care and prudence and was nevertheless unable to comply.

~~(b) The exercise of ordinary care and prudence may be demonstrated by facts and circumstances as stated in writing by the taxpayer. Additionally, in those cases when a~~

~~Department employee has information or knowledge supporting the taxpayer's assertion of ordinary care and prudence, a finding of reasonable cause may be based upon such additional information or knowledge, provided the finding of reasonable cause is documented to reflect such information or knowledge.~~

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

(2) through (14) No change.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—
New 5-23-89, Amended 8-10-92, 5-18-94, 10-2-01, _____.

12-13.0075 Guidelines for Determining Amount of Compromise.

(1) through (2) No change.

(3) Penalties Specific to Sales and Use Tax and Transient Rental Taxes.

(a) For purposes of this subsection:

1. "Sales tax or transient rental tax liability" means sales and use taxes, discretionary sales surtaxes, convention development taxes, tourist development taxes, and tourist impact taxes reported on a sales and use tax return and remitted to the Department.

2. "Noncompliant filing event" means the failure to timely file a complete and accurate sales and use tax return or failure to timely pay the amount of the tax reported on a sales and use tax return. Noncompliant filing events include:

a. Sales and use tax returns that are not timely filed;

b. Sales and use tax payments that are not timely remitted in full;

c. Incomplete or inaccurate sales and use tax returns; or,

d. Any sales tax or transient rental tax liability or delinquency that remains outstanding

after 30 days from the date the Department issues notification to the taxpayer.

(b) The Department will settle or compromise penalty imposed under Section 212.12(1)(a) or (2)(a), F.S., for a noncompliant filing event without an oral or written request from the taxpayer under the following conditions:

1. For taxpayers who file sales and use tax returns and remit sales tax or transient rental tax liabilities monthly, or an alternative-period basis as provided in Rule 12A-1.056(1)(d), F.A.C., such penalties will be settled or compromised when the taxpayer has:

a. No noncompliant filing event in the immediately preceding 12-month period and no unresolved sales tax or transient rental tax liability resulting from a noncompliant filing event; or

b. One noncompliant filing event in the immediately preceding 12-month period that was resolved through payment of tax and interest and the filing of a sales and use tax return within 30 days after notification by the Department, and no unresolved sales tax or transient rental tax liability resulting from a noncompliant filing event.

2. For taxpayers who file sales and use tax returns and remit sales tax or transient rental taxes quarterly, such penalties will be settled or compromised if the taxpayer has no noncompliant filing event in the immediately preceding 12-month period and no unresolved sales tax or transient rental tax liability resulting from a noncompliant filing event.

(c)1. The penalties under Section 212.12(1)(a) or (2)(a), F.S., imposed on any taxpayer who has had two or more noncompliant filing events in the immediately preceding 12-month period will be settled or compromised by the Department when the taxpayer demonstrates that the noncompliant filing event was due to extraordinary circumstances.

2. For purposes of this subsection, “extraordinary circumstances” means the occurrence of events beyond the control of the taxpayer, such as the death of the taxpayer, acts of war or

terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for compliance with the taxpayer's sales tax or transient rental tax liability. To demonstrate the nonfeasance or misfeasance of an employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the noncompliance and that the noncompliance was resolved within 30 days after actual knowledge.

(4) Penalties Specific to Failure to Collect Certain Taxes.

(a) Any penalty imposed under Section 212.12, F.S., for failure to collect sales tax, discretionary sales surtax, convention development tax, or rental car surcharge will be settled or compromised when:

1. The taxpayer's failure to collect the tax, surtax, or surcharge was based on a good faith belief that the tax, surtax, or surcharge was not due on a transaction; and

2. Because of the good faith belief that the transaction was not taxable, the taxpayer is now unable to charge and collect the tax, surtax, or surcharge from the purchaser.

(b) To request a compromise of penalties, the taxpayer must substantiate:

1. Why the taxpayer failed to collect the tax, surtax, or surcharge; and

2. Why the taxpayer is unable to collect the tax, surtax, or surcharge due on the transaction from the purchaser.

(5) Failure to Collect Sales Tax Based on the Tax Bracket System.

(a) When the Department determines that a dealer collected and remitted sales tax by rounding the tax due to the nearest whole cent and failed to apply the appropriate tax bracket system provided in Section 212.12, F.S., the dealer will not be held liable for additional tax, penalty, and interest when the dealer:

1. Acted in a good faith belief that rounding to the nearest whole cent was the proper method of determining tax;

2. Timely reported and remitted all sales taxes collected on each transaction, as required by Section 212.12, F.S.; and,

3. Executes a written agreement with the Department agreeing to future compliance with the laws and rules concerning brackets and the proper application of the tax bracket system to the dealer's transactions.

(6) Administrative Collection Processing Fee.

(a) The Department will waive or reduce the administrative collection processing fee imposed under Section 213.24(3), F.S., when the taxpayer demonstrates that the failure to pay the full amount due on the initial notification of the collection event within 90 days was due to extraordinary circumstances.

(b) For purposes of this subsection, "collection event" means when a taxpayer fails to:

1. Timely file a complete return;
2. Timely pay the full amount reported on a return; or
3. Timely pay the full amount due resulting from an audit after all appeal rights have expired or the result has been finally determined.

(c) For purposes of this subsection, "extraordinary circumstances" means the occurrence of events beyond the control of the taxpayer, such as the death of the taxpayer, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for complying with the taxes and fees listed in Section 213.05, F.S., and the unemployment compensation tax. To demonstrate the nonfeasance or misfeasance of an employee or representative, the taxpayer must show that the

principals of the business lacked actual knowledge of the collection event and any notification of the collection event.

(7) Service Fees for Returned Payments. When an unintentional error committed by the issuing financial institution, the taxpayer, or the Department results in a draft, order, or check being returned to the Department, and the unintentional error is substantiated by the Department, the service fee for returned payments imposed by Section 215.34(2), F.S., will be compromised by the Department. When the unintentional error is attributed to the issuing financial institution, the taxpayer will be required to submit to the Department a written statement from the financial institution, providing details of the error.

~~(8)(3)~~ Voluntary Self-Disclosure of Liability.

(a) When payment of delinquent tax and interest results from a voluntary, written self-disclosure by the taxpayer, which predates any contact with the taxpayer by the Department, the Department will compromise all penalties.

(b) No change.

~~(c) The presumption of reasonable cause does not apply when the taxpayer is registered with the Department or has routinely filed returns with the Department and the taxpayer's self-disclosure relates to a delinquency or deficiency that is obvious and would routinely generate a billing if not otherwise self-disclosed.~~

(4) through (6) Renumbered (9) through (11) No change.

~~(12)(7)~~ Subsections (2) through ~~(11)(6)~~ are intended to provide examples and guidance to taxpayers and Department employees, but should not be construed to limit the compromise of penalties to only those circumstances described in such subsections. However, no compromise is authorized in situations involving fraud, willful negligence, or willful neglect on the part of the

taxpayer.

Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS. Law Implemented 212.07(9), 212.12(14), 213.05, 213.21, 213.24(3) FS. History—New 8-10-92, Amended 10-2-01,_____.

12-13.008 Procedures for Compromise and Settlement of Taxes, Interest, and Penalties.

(1)(a) The Department will consider compromise or settlement of the taxpayer's liability for tax, interest, ~~or~~ penalty, or service fees only upon its receipt of the taxpayer's ~~written~~ request ~~that the same be settled and compromised under Section 213.21(3), F.S.~~ A However, a written request is ~~not~~ required to be submitted to the Department when: for the compromise or settlement of penalty and returned check service fee amounts of \$30,000 or less:

1. The request to settle or compromise is for an amount greater than \$30,000;

2. The complexity of the issue(s) involved requires that the taxpayer submit a written request that explains the issue(s); or,

3. The taxpayer asks to submit the request in writing.

(b) The taxpayer's request must ~~should~~ include:

~~1.(a)~~ The taxpayer's name, address, and taxpayer identifying number;

~~2.(b)~~ The type of tax and, if applicable, the type of penalty and service fees, and the taxable period(s) involved;

~~3.(c)~~ The amount of tax, interest, ~~or~~ penalty, service fees involved; and

~~4.(d)~~ A statement of the basis for settlement or compromise, including the facts and circumstances which substantiate the settlement or compromise ~~following:~~

~~1. In the case of tax or interest, the taxpayer's basis for doubt as to liability or collectibility, and the facts and circumstances which support the existence of such doubt; and~~

~~2. In the case of penalty, the taxpayer's basis for reasonable cause, and the facts and circumstances which support the existence of reasonable cause and which indicate the absence of willful negligence, willful neglect, or fraud.~~

~~(2) When a Department employee has additional knowledge or information supporting the taxpayer's request for compromise, the finding in support of a compromise may be based upon such knowledge or information, provided the basis for compromise is documented in writing.~~

~~(2)(3) A Department employee is authorized to settle or compromise tax, penalty, interest, or service fees within the employee's authority when ~~it is determined that~~ sufficient evidence exists to support the settlement or compromise ~~a finding of reasonable cause despite the fact that no written request has been made by the taxpayer.~~ The authorized employee must document person exercising the facts and circumstances of Department's authority shall prepare full documentation of any request and the settlement or compromise in, including the basis for finding reasonable cause,~~ for the Department's record.

~~(4) The taxpayer's request for compromise shall be filed upon receipt of a billing, notice, proposed assessment, or assessment, and shall be filed with the office issuing such billing, notice, proposed assessment, or assessment. This subsection is intended to expedite requests for compromise and settlement of taxes, interest, and penalties, but it does not alter deadlines specified in Rule Chapter 12-6, F.A.C.~~

Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS. Law Implemented 212.07(9), 212.12(14), 213.05, 213.21, 215.34(2) FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96, 10-2-01, _____.

12-13.009 Closing Agreements.

(1) No change.

(2) When a written closing agreement is necessary, the Department will ~~shall~~ prepare a ~~the~~ agreement on form DR-812, Closing Agreement, and forward it to the taxpayer. The taxpayer must ~~shall~~ sign the agreement and return it to the Department.

(a) through (c) No change.

~~(d) Any person delegated authority under this rule to compromise amounts of \$37,500 or more may sign a closing agreement on behalf of the Department, after determining that the compromise action complies with these rules. The Executive Director shall have discretionary authority to delegate authority to sign closing agreements to specific employees or positions not enumerated in these rules. A delegation of authority to any employee or position which is not enumerated herein shall be in writing, signed by the Executive Director, and shall be for a specified time period of no more than 2 years. Such delegations may be renewed in writing. Copies of any such written delegations of authority shall be maintained on file with the Agency Clerk in the Office of General Counsel.~~

(3) A closing agreement signed by the taxpayer and the ~~appropriate authority within the~~ Department settles, ~~as set forth herein, shall settle~~ the taxpayer's liability for tax, interest, or penalty for the tax period specified in the agreement absent any specific provision to the contrary contained in such closing agreement. The closing agreement is ~~shall be~~ binding upon the taxpayer and the Department unless there is a showing of fraud or misrepresentation of material fact, or unless the Department is required to make an adjustment of the taxpayer's liability under Section 220.23 or 198.16, F.S. The taxpayer is ~~shall not be~~ entitled to protest or institute judicial or administrative procedures to recover any tax, interest, or penalty paid pursuant to a closing

agreement absent any specific provision to the contrary contained in such closing agreement.

(4) No change.

~~(5) Form DR 812, Closing Agreement, dated May 1994, is hereby adopted by reference as the form used by the Department of Revenue for the purposes of this rule. A copy of this form is available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS. Law Implemented 212.07(9), 212.12(14) ~~420.55(1)(a)4.~~, 213.05, 213.21, 213.24(3), 215.34(2) FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96, 10-2-01, 4-26-10, _____.

12-13.010 Special Provisions Applicable to Compromise of Estate Taxes.

(1) Pursuant to Section 213.21(2)(b), F.S., the Executive Director is granted authority to compromise and settle the amount of taxes arising as a result of Chapter 198, F.S.; Section 213.21(3), F.S., authorizes the Department to compromise or settle tax, penalty, or interest in any amount. ~~If a case involves a billing or assessment issued by or referred to the Taxpayer Services Process, authority to compromise and settle is delegated as set forth in subsection 12-13.004(4),~~

~~F.A.C., for collection cases. If a case is protested, authority to compromise and settle is delegated as set forth in subsection 12-13.004(3), F.A.C. If a case is in litigation, authority to compromise and settle is delegated as set forth in subsection 12-13.004(2), F.A.C.~~

(2) through (3) No change.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—
New 8-10-92, Amended 5-18-94, 10-2-01,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.004

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-16.004, F.A.C. (Delegation of Authority), provide that: (1) the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into consent agreements with a taxpayer; and (2) such delegations will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 213.23, F.S., authorizes the Executive Director of the Department to designate positions within the Department that may enter into a consent agreement with a taxpayer to extend the period during which an assessment may be issued or a claim for refund may be filed. The proposed amendments to Rule 12-16.004, F.A.C. (Delegation of Authority), are necessary to provide how the Executive Director of the Department will designate those authorized positions.

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. 2893), to advise the public of the proposed amendment to Rule 12-16.004, F.A.C. (Delegation of Authority), 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.

After further review of provisions regarding delegations of authority issued by the Executive Director of the Department, the proposed amendments to Rule 12-16.004, F.A.C. (Delegation of Authority) were revised to provide that the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into consent agreements with taxpayers and that any such delegation will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

SUMMARY OF PUBLIC HEARING

HELD ON JUNE 25, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on June 25, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-16.004, F.A.C. (Delegation of Authority). A notice for the public hearing was published in the Florida Administrative Register on June 12, 2013 (Vol. 39, No. 114, pp. 3004-3005).

SUMMARY OF RULE HEARING

JULY 31, 2013

A Notice of Proposed Rule published in the Florida Administrative Register on July 3, 2013 (Vol. 39, No. 129, pp. 3359-3360), to advise the public of the proposed changes to Rule 12-16.004, F.A.C. (Delegation of Authority), and to provide that, if requested, a rule hearing would be held on July 31, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.004

12-16.004 Delegation of Authority.

(1) In addition to the statutory authority granted by Section 213.23, F.S., the Executive Director of the Department has authority to enter into consent agreements or extensions of consent agreements with taxpayers under authority granted by the Governor and Cabinet acting as the head of the Department. Cross Reference: Rule 12-3.007, F.A.C.

(2) The Executive Director of the Department is authorized to issue a delegation of ~~hereby delegates~~ authority setting forth those positions authorized to enter into consent agreements and extensions of consent agreements with taxpayers under Section 213.23, F.S. Any such delegation, ~~to the following designated positions in the Department:~~

~~(a) The Deputy Executive Director, the General Counsel, the Deputy General Counsel, and the Assistant General Counsels.~~

~~(b) Within Technical Assistance and Dispute Resolution:~~

- ~~1. The Director and Deputy Director of Technical Assistance and Dispute Resolution; and~~
- ~~2. All Revenue Program Administrators, Senior Attorneys, Attorneys, Tax Law Specialists, and Senior Tax Specialists in Technical Assistance and Dispute Resolution;~~

~~(c) Within the General Tax Administration Program:~~

- ~~1. Director's Office — The Program Director, Deputy Program Director, Regional~~

~~Managers, Service Center Managers, Senior Revenue Consultants, Tax Audit Supervisors, Revenue Administrators, Senior Tax Specialists, Tax Auditors, Tax Specialists, and Revenue Specialists.~~

~~2. Compliance Support Process—The Process Manager, Revenue Program, Tax Law Specialists, Senior Tax Specialists.~~

~~3. Taxpayer Services Process—The Process Manager, Revenue Program Administrators, Revenue Administrators, Tax Specialist Administrators, Revenue Managers, and Revenue Specialists.~~

~~4. Refunds and Distribution Process—The Process Manager.~~

~~5. When the Executive Director delegates authority to enter into consent agreements to specific employees or positions that are not provided in this rule, the delegation of authority will be in writing, signed by the Executive Director, and will be for a specified time period. The renewal of such delegations will also be in writing, signed by the Executive Director. Copies of written delegations of authority are maintained on file with the agency clerk in the Office of General Counsel.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 213.23 FS. History—New 12-28-88, Amended 3-16-93, 12-2-03, 9-13-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-12, FLORIDA ADMINISTRATIVE CODE
SOLID WASTE FEES
AMENDING RULES 12A-12.001 AND 12A-12.0011

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-12.001, F.A.C. (New Tire Fee): (1) reorganize the rule to improve readability and simplify provisions regarding the new tire fee imposed by Section 403.718, F.S.; (2) clarify that the fee is applicable when a new motor vehicle tire is sold to a governmental entity or a tax-exempt entity; (3) clarify the term "motor vehicle" for purposes of the fee, providing examples of various types of vehicles and whether the tires sold for use on such vehicles are subject to the fee; (4) provide that tires used on racing vehicles that are not operated on Florida highways are not subject to the new tire fee; (5) revise the suggested exemption certificate used to purchase tires for vehicles that are not subject to the fee; and (6) put dealers on notice of the requirement to maintain the exemption certificates in their records.

The proposed amendments to Rule 12A-12.0011, F.A.C. (Battery Fee): (1) reorganize the rule to improve readability and simplify provisions regarding the lead-acid battery fee imposed by Section 403.7185, F.S.; (2) clarify that the fee is applicable when a battery is sold to a governmental entity or a tax-exempt entity; (3) adopt the revised provisions of Rule 12A-12.001, F.A.C., regarding the definition of "motor vehicle" for purposes of the fee; and (4) clarify the definition of a "new" lead-acid battery and a "remanufactured" lead-acid battery for purposes of the fee.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-12.001, F.A.C. (New Tire Fee), and Rule 12A-12.0011, F.A.C. (Battery Fee), clarify the application of the new tire fee and the battery fee imposed by Sections 403.718 and 403.7185, F.S., and reorganize the rules to improve readability and simplify provisions regarding the fees.

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. 2902 - 2903), to advise the public of the proposed amendments to Rule 12A-12.001, F.A.C. (New Tire Fee), and Rule 12A-12.0011, F.A.C. (Battery Fee), 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.

Additional provisions were added to clarify that the new tire fee and the battery fee are imposed by Sections 403.718 and 403.7185, F.S.

SUMMARY OF PUBLIC HEARING

HELD ON JUNE 25, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on June 25, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-12.001, F.A.C. (New Tire Fee), and Rule 12A-12.0011, F.A.C. (Battery Fee). A notice for the public hearing was published in the Florida Administrative Register on June 12, 2013 (Vol. 39, No. 114, pp. 3004-3005).

SUMMARY OF RULE HEARING

JULY 31, 2013

A Notice of Proposed Rule published in the Florida Administrative Register on July 3, 2013 (Vol. 39, No. 129, pp. 3360-3365), to advise the public of the proposed changes to Rule 12A-12.001, F.A.C. (New Tire Fee), and Rule 12A-12.0011, F.A.C. (Battery Fee), and to provide that, if requested, a rule hearing would be held on July 31, 2013. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-12, FLORIDA ADMINISTRATIVE CODE
SOLID WASTE FEES
AMENDING RULES 12A-12.001 AND 12A-12.0011

12A-12.001 New Tire Fee.

(1)(a) Section 403.718, F.S., imposes ~~For the privilege of engaging in business,~~ a fee for ~~each new motor vehicle tire sold at retail in this state is imposed at the rate of 50 cents for each new tire sold during 1989 and~~ at the rate of \$1 for each new motor vehicle tire sold at retail in this state during 1990 and subsequent years.

(b)(2) The fee is imposed upon the dealer selling the new motor vehicle tire and not upon the purchaser.

(c) The fee is applicable even when the sale of a new motor vehicle tire is to any governmental agency or any organization that holds a Florida Consumer's Certificate of Exemption.

(d)(3) The fee is required to be stated separately on the sales invoice or other tangible evidence of sale given to the purchaser.

(e)(4) No change.

(2)(5) For purposes of this rule:

(a) ~~“Tire” means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.~~

(b) ~~“Vehicle” means a mechanism or device in, upon, or by which a person or property is~~

or may be transported.

~~(a)(e)~~ “Motor vehicle” means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated in this state, used to transport persons or property, and propelled by power other than muscular power. Any vehicle that has been designed for the primary purpose of carrying multiple passengers in addition to a driver or operator is considered as being used to transport persons. Any vehicle that has been designed for the primary purpose of carrying freight, baggage, or bulk materials or bulk liquids is considered as being used to transport property. ~~The term specifically includes such off-road vehicles as golf carts, all terrain vehicles, race cars, and goats. The term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, farm tractors and farm trailers, or vehicles that are not intended to transport persons or property. For example, a riding mower is not a motor vehicle since its purpose is to mow, not to serve as a means of transportation. However, a vehicle which is used exclusively in an airport to transport passengers from one gate to another serves as a means of transportation and is considered to be a motor vehicle.~~

1. The term motor vehicle also includes:

a. All-terrain vehicles or ATVs, as defined by Section 317.0003, F.S.

b. Golf carts, as defined by Section 320.01, F.S.

c. Trucks defined as “goats” by Section 320.08, F.S.

d. Utility vehicles, as defined by Section 320.01, F.S.

2. The term motor vehicle specifically does not include:

a. Bicycles.

b. Electric personal assistive mobility devices, commonly known as Segways, as defined by Section 316.003(83), F.S.

c. Farm tractors, as provided by Section 320.51, F.S.

d. Farm trailers, as provided by Section 320.51, F.S.

e. Forklift trucks, motorized pallet trucks, or other similar industrial equipment used in warehouse or supply yard operations.

f. Mopeds, as defined by Section 320.01, F.S.

g. Racing vehicles that run exclusively at a “closed-course motorsport facility,” as defined by Section 549.09, F.S., or at a “motorsports entertainment complex,” as defined by Section 549.10, F.S.

h. Special mobile equipment, as defined by Section 316.003(48), F.S., such as traction engines, road rollers, motor graders, haulers, backhoes, wheel loaders, or other similar heavy-duty vehicles requiring specialized off-the-road tires or continuous tracks.

i. Vehicles that are designed with the specific primary purpose of performing work and are not intended to transport persons or property, such as aircraft pushback tractors or riding mowers, regardless of the fact that an operator or materials are also being carried during the performance of the work.

j. Wheelchairs, including powered models.

(b)(d) “New tire” or “new motor vehicle tire” is one that has never been used in the movement of a motor vehicle, regardless of the time that has elapsed since the tire ~~it~~ was manufactured, offered for sale, sold, or the time during which it was used as a spare tire. A tire is not “new” for purposes of this rule if it has been so used, including a tire that has been used but has been recapped or retreaded. The terms include the original retail sale of a spare tire as a component part of a new motor vehicle.

(c)(e) The term “sales tax resale certificate” or “certificate” means an Annual Resale

Certificate (~~form DR-13~~) issued by a dealer to make tax exempt purchases for the purposes of resale, as provided in Rule 12A-1.039, F.A.C.

(d) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

~~(f) The terms "sold at retail" and "retail sales" include the sale of a new motor vehicle tire as a separate item or the sale of the tire as a component part of a new or used motor vehicle that is sold at retail. However, they do not include the sale of new motor vehicle tires to a person solely for the purpose of resale, as provided in subsection (6).~~

~~1. Example: A tire retailer sells a new tire to a customer to put onto his motor vehicle. Since this is a retail sale of the new tire, the retailer is required to separately state the fee on the customer's invoice and to pay the fee on this sale.~~

~~2. Example: A motor vehicle dealer sells at retail a new or used motor vehicle on which there are four new tires. This retail sale of the vehicle is, for purposes of the fee, a retail sale of the new tires that are a component part of the vehicle. The motor vehicle dealer is required to separately state the fee on the customer's invoice and to pay the fee on this sale.~~

~~(g) A sale of a new tire is "in this state" and, thus, is subject to the fee if the sale is "in this state" for sales tax purposes, including a sale that is a "mail order sale", as defined in Section 212.0596(1), F.S.~~

~~(h) The term "sale" means and includes any transfer of title or possession, or both, exchange, barter, license, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of a new tire for a consideration.~~

(3)(a) The new tire fee imposed by Section 403.718, F.S., applies to retail sales of new motor vehicle tires, whether sold separately or as a component part of a new or used motor

vehicle sold at retail in Florida.

(b) Retail sales of new motor vehicles are subject to the fee.

(c) Retail sales of used motor vehicles are considered as having been made with used tires and are not subject to the fee unless the sales invoice indicates that a new tire or tires have been installed by the dealer prior to sale.

~~(6)(a)1. The sale of a new motor vehicle tire to a person solely for the purpose of resale is not a “retail sale”, as defined in paragraph (5)(e), provided the subsequent retail sale in this state is subject to the fee and the seller shall have taken from the purchaser a certificate to the effect that the tire was purchased for resale.~~

~~2. Example: Motor vehicle dealer A purchases four new tires and puts them onto a used vehicle to be sold. No fee is payable by the seller of the tires if the seller takes a sales tax resale certificate from Dealer A. Thereafter, Dealer A sells the vehicle, onto which the new tires were put, to motor vehicle Dealer B. No fee is payable by Dealer A if it takes a sales tax resale certificate from Dealer B. Dealer A should clearly indicate on the invoice to Dealer B that there are four new tires on the vehicle on which the fee has not been paid. When Dealer B sells the vehicle at retail, Dealer B must separately state the fee on the invoice to the purchaser and pay the fee.~~

~~(4)(a)(b)~~ A motor vehicle dealer can purchase ~~one or more~~ tires exempt from the fee as a sale for resale by presenting a sales tax resale certificate to the seller of the tires. If ~~However, if~~ ~~thereafter~~ the motor vehicle dealer subsequently withdraws any such tire from inventory to use on the dealer’s own vehicle, to give away, or for any purpose except for resale, the motor vehicle dealer will owe the fee at the time the tire is withdrawn from inventory. If the motor vehicle dealer sells the tire at retail, whether separately or installed on a motor vehicle, that sale will be

subject to the fee. If the motor vehicle dealer resells ~~sells~~ the tire to a dealer purchaser who presents a sales tax resale certificate, no fee will be due on that transaction.

~~(b)(e) Motor vehicle~~ Notwithstanding paragraphs (6)(a) and (b) above, used-car dealers that exclusively sell used motor vehicles may elect to pay the fee to the tire wholesaler on the purchase of tires instead in lieu of purchasing tires exempt from the tire fee. If the used motor vehicle ~~used-car~~ dealer elects to do so, the ~~used-car~~ dealer must pay the tire fee to the tire wholesaler on all its purchases of tires. ~~The used-car dealer must indicate on the sales tax resale certificate issued to the tire wholesaler that the certificate is to be used to exempt the purchases of tires from sales tax only and not from the tire fee.~~ For the purpose of the tire fee only, the wholesale tire dealer is to treat the sale as a retail sale and must separately state the tire fee on the sales invoice to the used motor vehicle ~~used-car~~ dealer. On subsequent retail sales by the used motor vehicle ~~used-car~~ dealer, the ~~used-car~~ dealer must state in the contract or on the sales invoice to the purchaser that the applicable tire fee has been previously paid ~~to the state on the tires sold, whether sold separately or as a component part of a motor vehicle.~~

~~(5)(d)~~ A sale to a motor vehicle leasing company of a new motor vehicle tire or a vehicle of which a new motor vehicle tire is a component part is not a retail sale for purposes of the fee when if the leasing company gives the seller a sales tax resale certificate. Instead, the fee is payable by the leasing company when it first puts the vehicle into use in this state.

~~(6)(7)~~ No Change.

~~(7)(a)(8)~~ When there is a sale of a new tire that can either be used on a “motor vehicle,” ~~as that term is defined in paragraph (5)(e),~~ or on a farm tractor, farm trailer, or other equipment that is specifically excluded from that definition, it will be presumed to be purchased for use on a “motor vehicle” unless the purchaser gives to the seller at the time of purchase a certificate to the

effect that the new tire will be used on a farm tractor, farm trailer, or other equipment that is specifically excluded from that definition. The exemption certificate must be retained by the selling dealer until the fee imposed under Section 403.718, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) The following is a suggested exemption certificate to be completed by a purchaser and presented to the seller ~~and to be retained in the seller's records as evidence that the tire or tires purchased were not for use on a "motor vehicle", and that, therefore, no fee on the transaction was due by the seller:~~

EXEMPTION CERTIFICATE

TIRE FEE

The undersigned hereby certifies that the new tire(s) listed on the attached sales invoice or purchase order will be used exclusively on the following type of vehicle or equipment, which is excluded from the definition of "motor vehicle," as provided by Rule 12A-12.001(2)(a), Florida

Administrative Code:

_____ Farm tractor

_____ Farm trailer

_____ Other (specify) _____

I understand that if I fraudulently issue this certificate to evade the payment of the fee imposed on a new tire I will be liable for payment of the fee, plus a penalty of 200% of the fee, and may be subject to conviction of a third degree felony.

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

Purchaser's Name _____

By (Purchaser's Signature) _____

Date _____

Rulemaking Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b) FS.

Law Implemented 212.07(1)(b), 212.12, 212.17(1)(a), 403.717, 403.718 FS. History- New 1-2-89, Amended 10-16-89, 12-16-91, 3-20-96, 6-19-01,_____.

12A-12.0011 Battery Fee.

(1)(a) Section 403.7185, F.S., imposes ~~For the privilege of engaging in business,~~ a fee at the rate of \$1.50 for each new or remanufactured lead-acid ~~legalized~~ battery sold at retail in this state ~~is imposed on each person engaging in the business of making retail sales of lead-acid batteries within this state.~~

~~(b) The fee is payable one time only on the sale of a new or remanufactured battery.~~

~~(c) The fee is payable if the new or remanufactured battery is sold as a component part of a motor vehicle, vessel, or aircraft or other property.~~

~~(d) Notwithstanding paragraphs (a) and (b), the fee is not payable if the battery is sold to recycle components.~~

(b)(2) The fee is imposed upon the dealer selling the new or remanufactured lead-acid battery and not upon the purchaser.

(c) The fee is applicable even when the sale of a new or remanufactured lead-acid battery is to any governmental agency or any organization that holds a Florida Consumer's Certificate of Exemption.

~~(3) While the fee is payable on the retail sale of a new or remanufactured battery only if the battery, as defined in paragraph (a) of subsection (6), is designed for use in motor vehicles,~~

vessels, and aircraft, the fee is payable even if a battery so designed is purchased for use on other machinery or equipment or when sold at retail as a component part of other machinery or equipment.

~~(d)(4)~~ The dealer is not required ~~may choose whether~~ to state the fee separately on the invoice to the purchaser. However, if the fee is separately stated on the invoice, the fee must be included in the price upon which any tax imposed by Chapter 212, F.S., is computed, ~~whether or not the additional cost is passed on to the purchaser;~~ and the dealer may choose whether to absorb all or part of the fee and whether to advertise or hold out to the public that it is doing so.

~~(5)~~ The fee is to be included in the price upon which sales or use tax or any other tax imposed by Part I of Chapter 212, F.S., is computed, even though the fee may be listed as a separate item on the invoice.

~~(2)(6)~~ For purposes of this rule:

(a) A “lead-acid battery” is a starting, marine, or deep-cycle battery ~~storage or secondary~~ battery containing lead plates that will function as a battery when the electrolyte is added, and that is designed for use in motor vehicles, vessels, and aircraft.

(b) “Motor vehicle” means motor vehicles as provided in Rule 12A-12.001, F.A.C. ~~an~~ automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated in this state, used to transport persons or property, and propelled by power other than muscular power. ~~The term specifically includes such off road vehicles as golf carts, all terrain vehicles, race cars, and goats. The term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, farm tractors and farm trailers, or vehicles that are not intended to transport persons or property. For example, a riding mower is not a motor vehicle since its purpose is to mow, not to serve as a means of transportation.~~

~~However, a vehicle which is used exclusively in an airport to transport passengers from one gate to another serves as a means of transportation and is considered to be a motor vehicle.~~

~~(c) A “new” lead-acid battery is one that has never been used in the operation of a motor vehicle, vessel, or aircraft, regardless of the time that has elapsed since the battery was manufactured. The term “resale certificate” or “sales tax resale certificate” means an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale.~~

~~(d) A “remanufactured” lead-acid battery is one that has gone through an industrial process including the removal of sulfation to restore the battery’s original electrical capacity. A remanufactured battery is not a used battery that has only been recharged. The term “sale” means and includes any transfer of title or possession, or both, exchange, barter, license, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of a lead-acid battery for a consideration.~~

~~(e) The term “resale certificate” or “sales tax resale certificate” means an Annual Resale Certificate issued by a dealer to make tax exempt purchases for the purposes of resale, as provided in Rule 12A-1.039, F.A.C. The term “sold at retail” includes the sale of a new or remanufactured lead-acid battery as a separate item or as a component part of a vehicle, vessel, aircraft, or other machinery or equipment that contains a battery designed for use in a motor vehicle, vessel, or aircraft. The term “sold at retail” does not include the sale of a lead-acid battery to a person solely for the purpose of resale, as provided in subsection (7), or the sale of a lead-acid battery for the purpose of recycling its component parts.~~

~~1. Example: A battery retailer sells a lead-acid battery to a customer to put into his motor vehicle. Since this is a retail sale of the battery, the retailer is required to pay the fee on this sale.~~

~~2. Example: A motor vehicle dealer imports into this state a new motor vehicle in which there is a lead-acid battery already installed. The battery fee must be paid by the dealer when the dealer sells the new vehicle at retail.~~

~~3. Example: Lead-acid batteries are sold to a dealer who gives the seller a resale certificate as proof that the batteries are purchased for resale. This sale of the batteries to the dealer is not, for purposes of the fee, a retail sale of the batteries.~~

~~4. Example: A lead-acid battery that is designed for use in a motor vehicle, vessel, or aircraft is sold to a father to put into his child's toy which uses a car battery. The fee is payable by the retailer, since the battery is so designed, even though it was purchased for another use.~~

~~5. Example: A new or remanufactured lead-acid battery that is designed for use in an automobile is sold to a farmer to put into a farm tractor or other machinery that is not a "motor vehicle". The fee is payable by the retailer, since the battery is designed for use in a "motor vehicle", even though it was purchased for use in machinery that is not within that definition.~~

~~(f) A retail sale of a new or remanufactured lead-acid battery is "in this state" and, thus, is subject to the fee, if the sale is "in this state" for sales tax purposes, including a sale that is a "mail order sale," as defined in Section 212.0596(1), F.S.~~

(3)(a) Section 403.7185, F.S., imposes a fee on retail sales of new or remanufactured lead-acid batteries, whether sold separately or as a component part of a motor vehicle, vessel, or aircraft.

(b) Retail sales of new motor vehicles, vessels, or aircraft are subject to the fee.

(c) Retail sales of used motor vehicles, vessels, or aircraft are considered as having been made with a used battery and are not subject to the fee, unless the sales invoice indicates that a new or remanufactured battery has been installed by the dealer prior to sale.

(4)(a) The fee imposed by Section 403.7185, F.S., is applicable to retail sales of lead-acid batteries, even if that battery is purchased for other uses.

(b) Example: A person goes to an auto parts store and purchases an automobile battery for use with an emergency electrical generator. The fee is imposed on the sale of the battery since it was designed for use in a motor vehicle.

(c) Example: A rural farm supply store does not have the exact model and size battery recommended by the manufacturer for a farmer's tractor. However, the farm supply store does have an automobile battery that will be able to start the farmer's tractor. The fee is imposed on the sale of the battery, even though it will be installed in a vehicle that is not defined as a motor vehicle.

~~(5)(7)(a) The sale of a new or remanufactured lead-acid battery to a dealer person solely for the purpose of resale is not subject to the fee imposed by Section 403.7185, F.S. a "sale at retail," as defined in paragraph (6)(d), provided the seller shall have taken from the purchaser a sales tax resale certificate to the effect that the battery was purchased for resale. A resale certificate given to the seller for sales tax purposes will also be sufficient evidence that the sale was not a retail sale for purposes of the fee.~~

(b)1. If a dealer purchases a new or remanufactured battery for resale, and later withdraws the battery from inventory to use in the dealer's own motor vehicle, vessel, aircraft, machinery, or other equipment; to give away; or for any purpose other than for resale, that dealer will owe the fee at the time the battery is withdrawn from inventory.

2. Example: Motor vehicle Dealer A purchases a new or remanufactured lead-acid battery for installation ~~to install~~ in a used vehicle ~~to be sold~~. No fee is payable by the battery seller, when if the seller takes from Dealer A extends a sales tax resale certificate. When Dealer A will not

~~owe the fee when takes the battery is installed out of inventory to put into the vehicle that is to be sold, that dealer will not owe the fee at that time,~~ but the dealer will owe the fee, when the vehicle is sold at retail. However, if Dealer A sells the vehicle, in which the battery has been installed, to motor vehicle Dealer B to sell it at retail, the fee will not be payable by Dealer A; ~~when if he takes from Dealer B extends a resale certificate. The, but the~~ fee will be payable by Dealer B; ~~when that dealer if he~~ subsequently sells the vehicle it at retail.

(c) Dealers that exclusively sell used motor vehicles, used vessels, or used aircraft may elect to pay the battery fee to the battery wholesaler on the purchase of batteries instead of purchasing batteries exempt from the fee. If the dealer elects to do so, the dealer must pay the fee to the battery wholesaler on all its purchases of batteries. The motor vehicle, vessel, or aircraft dealer is not required to indicate on the sales invoice to its retail customer that the applicable battery fee has been paid.

~~(6)(e)~~ A sale to a leasing company of a new or remanufactured lead-acid battery, or motor vehicle, vessel, or aircraft in or vehicle or machinery of which the lead-acid battery is a component part, is not a retail sale for purposes of the fee, when if the leasing company purchaser gives the seller a sales tax resale certificate. Instead, the fee is payable by the leasing company when it first puts the motor vehicle, vessel, or aircraft into use in this state.

~~(7)(8)~~ No change.

Rulemaking Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1), 403.7185(3)(b)
FS. Law Implemented 212.07(1)(b), 212.12, 212.17(1)(a), 403.717(1)(b), (h), 403.7185 FS.
History-New 10-16-89, Amended 12-16-91, 3-20-96, 4-2-00, 6-19-01, _____.

ATTACHMENT 3



Executive
Director
Marshall Stranburg

September 24, 2013

MEMORANDUM

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

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

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

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

THRU: Marshall Stranburg, Executive Director

FROM: Andrea J. Moreland, Deputy Executive Director

SUBJECT: Requesting Approval to Hold a Public Hearing on Proposed Rules –
*Agreements for Scheduling Payment of Outstanding Tax Liabilities
Tax Warrants and Post-Warrant Collections*

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.

Child Support Enforcement – Ann Coffin, Director • General Tax Administration – Maria Johnson, Director
Property Tax Oversight – James McAdams, Director • Information Services – Damu Kuttikrishnan, Director

www.myflorida.com/dor
Tallahassee, Florida 32399-0100

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 Notices of Proposed Rule in the Florida Administrative Weekly for these proposed rules.

AGREEMENTS FOR SCHEDULING PAYMENT OF OUSTANDING TAX LIABILITIES

Why are the proposed rules necessary? When taxpayers are unable to make full payment of their outstanding tax liabilities in a single payment, Florida Statutes authorize the Department to enter into stipulated time payment agreements with taxpayers. This rulemaking updates procedures for taxpayers entering into stipulated time payment agreements. (*Rule Chapter 12-17, F.A.C.*)

What do the proposed rules do? This rule chapter, as revised, contains the procedures used by the Department to enter into stipulated time payment agreements with taxpayers to resolve their outstanding tax liabilities.

Were comments received from external parties? No.

TAX WARRANTS AND POST-WARRANT COLLECTIONS

Why is the proposed rule necessary? When efforts to collect delinquent taxes, fees, or surcharges are unsuccessful, Florida Statutes authorize the Department to issue a tax warrant and to file a judgment lien for the delinquent taxes, fees, or surcharges. When these collection methods are unsuccessful, the Florida Statutes also allow the Department to utilize other post-warrant methods to collect the delinquent amounts. This rulemaking updates and clarifies the rule chapter that provides the procedures used by the Department to collect delinquent taxes, fees, or surcharges, and repeals a sales tax rule on the same subject that will no longer be necessary. (*Rule Chapter 12-21, F.A.C., and Rule 12A-1.090, F.A.C.*)

What does this proposed rule do? This rule chapter, as revised, contains the procedures used by the Department to issue tax warrants, to file judgment liens, and to utilize the post-warrant methods to collect delinquent taxes, fees, or surcharges.

Were comments received from external parties? No.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-17, FLORIDA ADMINISTRATIVE CODE

AGREEMENTS FOR SCHEDULING PAYMENT OF LIABILITIES

AMENDING RULES 12-17.001, 12-17.002, 12-17.003, 12-17.004, 12-17.005,

12-17.006, 12-17.007, 12-17.008, AND 12-17.009

REPEALING RULE 12-17.010

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-17.001, F.A.C. (Scope of Rules), provide that rules regarding the scheduling of payments to resolve outstanding tax liabilities do not apply to certain agreements, orders, or settlement of circuit court proceedings.

The proposed amendments to Rule 12-17.002, F.A.C. (Definitions), Rule 17.003, F.A.C. (Requirements for Considering Entering into Stipulated Time Payment Agreements), and Rule 12-17.005, F.A.C. (Factors Considered by the Department), provide that outstanding liabilities for taxes administered, regulated, controlled, and collected by the Department, and for the reemployment tax collected by the Department, may be resolved through stipulated time payment agreements.

The proposed amendments to Rule 12-17.004, F.A.C. (Delegation of Authority), provide that: (1) the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into stipulated time payment agreements; and (2) any such delegations will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

The proposed amendments to Rule 12-17.006, F.A.C. (Procedures), standardize the requirements for a taxpayer to request a stipulated time payment agreement from the Department.

The proposed amendments to Rule 12-17.007, F.A.C. (Form and Execution of Stipulated Time Payment Agreements): (1) remove provisions prescribing Form DR-68 as the form used for stipulated time payment agreements; (2) provide that modifications to an agreement must be in writing and executed by all parties; and (3) remove payment coupons that are no longer used by the Department.

The proposed amendments to Rule 12-17.008, F.A.C. (Terms of Stipulated Time Payment Agreements), provide: (1) that the amount of a down payment required to enter into a stipulated time payment agreement is based upon the amount of the outstanding liability and the taxpayer's ability to pay; (2) the notifications that will be included in a stipulated time payment agreement regarding actions the Department will take when an agreement is held in default; (3) that provisions relating to jeopardy assessments continue to apply during the term of an agreement; (4) that the taxpayer agrees to make the required payments by electronic means, unless a variance or waiver is granted by the Department; (5) that the taxpayer agrees to timely file all required tax returns and timely remit all taxes due during the term of the agreement; and (6) that additional liabilities identified will be assessed upon a taxpayer who has entered into a stipulated time payment agreement to resolve other outstanding tax liabilities.

The proposed amendments to Rule 12-17.009, F.A.C. (Agreements in Default): (1) provide that any outstanding liability that remains due when a taxpayer is held in default of the terms of a stipulated time payment agreement is immediately due and payable; and (2) remove the listing of collection actions authorized by statute for the Department to recover outstanding liabilities when an agreement is held in default.

The proposed repeal of Rule 12-17.010, F.A.C. (Public Use Forms), removes the unnecessary adoption of Form DR-68, Stipulated Time Payment Agreement, which does not meet the definition of a “rule” in Section 120.52(15), F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 213.21, F.S., requires the Department to establish rules and procedures for entering into stipulated time payment agreements with taxpayers to resolve their outstanding tax liabilities. The proposed amendments to Rule Chapter 12-17, F.A.C. (Agreements for Scheduling Payments of Liabilities), are necessary to update and standardize the procedures for taxpayers resolving their outstanding tax liabilities through stipulated time payment agreements. When in effect, the updated rule chapter establishes the requirements to enter into a stipulated time payment agreement and to remain in compliance with the terms of the agreement, and the actions that will be taken when a taxpayer is held in default of an agreement.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

SEPTEMBER 20, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on August 31, 2012 (Vol. 38, No. 35, pp. 3559 - 3560), to advise the public of the proposed changes to Rule Chapter 12-17, F.A.C. (Agreements for Scheduling Payments of

Liabilities), and to provide that, if requested in writing, a rule development workshop would be held on September 20, 2012. No request was received by the Department. No written comments were received by the Department.

After further review of provisions regarding delegations of authority issued by the Executive Director of the Department, the proposed amendments to Rule 12-17.004, F.A.C. (Delegation of Authority) were revised to provide that the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into stipulated time payment agreements and that any such delegation will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

AGREEMENTS FOR SCHEDULING PAYMENT OF LIABILITIES

RULE NO: RULE TITLE:

12-17.001 Scope of Rules

12-17.002 Definitions

12-17.003 Requirements for Considering Entering into Stipulated Time Payment
 Agreements

12-17.004 Delegation of Authority

12-17.005 Factors Considered by the Department

12-17.006 Procedures

12-17.007 Form and Execution of Stipulated Time Payment Agreements

12-17.008 Terms of Stipulated Time Payment Agreements

12-17.009 Agreements in Default

12-17.010 Public Use Forms

PURPOSE AND EFFECT: Section 213.21, F.S., requires the Department to establish rules and procedures for entering into stipulated time payment agreements with taxpayers to resolve their outstanding tax liabilities. The purpose of the proposed amendments to Rule Chapter 12-17, F.A.C. (Agreements for Scheduling Payments of Liabilities), is to update and standardize the procedures for taxpayers resolving their outstanding tax liabilities through stipulated time payment agreements. When in effect, the updated rule chapter will establish the requirements to enter into a stipulated time payment agreement and to remain in compliance with the agreement, and the actions that will be taken when a taxpayer is held in default of an agreement.

SUMMARY: The proposed amendments to 12-17.001, F.A.C. (Scope of Rules), provides that rules regarding the scheduling of payments to resolve outstanding tax liabilities do not apply to certain agreements, orders, or settlement of circuit court proceedings.

The proposed amendments to Rule 12-17.002, F.A.C. (Definitions), Rule 17.003, F.A.C. (Requirements for Considering Entering into Stipulated Time Payment Agreements), and Rule 12-17.005, F.A.C. (Factors Considered by the Department), provide that outstanding liabilities for taxes administered, regulated, controlled, and collected by the Department, and for the reemployment tax collected by the Department, may be resolved through stipulated time payment agreements.

The proposed amendments to Rule 12-17.004, F.A.C. (Delegation of Authority), provide that: (1) the Executive Director of the Department is authorized to issue a delegation of authority to designate those positions authorized to enter into stipulated time payment agreements; and (2) any such delegations will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel.

The proposed amendments to Rule 12-17.006, F.A.C. (Procedures), standardize the requirements for a taxpayer to request a stipulated time payment agreement from the Department.

The proposed amendments to Rule 12-17.007, F.A.C. (Form and Execution of Stipulated Time Payment Agreements): (1) removes provisions prescribing Form DR-68 as the form used for stipulated time payment agreements; (2) provides that modifications to an agreement must be in writing and executed by all parties; and (3) removes payment coupons that are no longer used by the Department.

The proposed amendments to Rule 12-17.008, F.A.C. (Terms of Stipulated Time Payment Agreements), provide: (1) that the amount of a down payment required to enter into a

stipulated time payment agreement is based upon the amount of the outstanding liability and the taxpayer's ability to pay; (2) the notifications that will be included in a stipulated time payment agreement regarding actions the Department will take when an agreement is held in default; (3) that provisions relating to jeopardy assessments continue to apply during the term of an agreement; (4) that the taxpayer agrees to make the required payments by electronic means, unless a variance or waiver is granted by the Department; (5) that the taxpayer agrees to timely file all required tax returns and timely remit all taxes due during the term of the agreement; and (6) that additional liabilities identified will be assessed upon a taxpayer who has entered into a stipulated time payment agreement to resolve other outstanding tax liabilities.

The proposed amendments to Rule 12-17.009, F.A.C. (Agreements in Default): (1) provide that any outstanding liability that remains due when a taxpayer is held in default of the terms of a stipulated time payment agreement is immediately due and payable; and (2) remove the listing of collection actions authorized by statute for the Department to recover outstanding liabilities when an agreement is held in default.

The proposed repeal of Rule 12-17.010, F.A.C. (Public Use Forms), removes the unnecessary adoption of Form DR-68, Stipulated Time Payment Agreement, which does not meet the definition of a "rule" in Section 120.52(15), F.S.

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 regarding the procedures for resolving outstanding tax liabilities by entering into stipulated time payment agreements and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 20.05(1)(e), 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 90.408, 212.18, 213.015(10), 213.05, 213.21(2), (4), 213.24(3), 213.27, 213.67, 213.69, 213.692, 443.1316, 443.141 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: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of

Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7610.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-17, FLORIDA ADMINISTRATIVE CODE
AGREEMENTS FOR SCHEDULING PAYMENT OF LIABILITIES
AMENDING RULES 12-17.001, 12-17.002, 12-17.003, 12-17.004, 12-17.005,
12-17.006, 12-17.007, 12-17.008, AND 12-17.009
REPEALING RULE 12-17.010

12-17.001 Scope of Rules.

(1) The rules set forth in this chapter shall be used by the Department in exercising the authority granted by Section 213.21(4), F.S., to enter into agreements for scheduling payments of outstanding liabilities ~~taxes, interest, and penalties~~. These rules also implement the Taxpayer Bill of Rights statutory provision that guarantees every Florida taxpayer the right to procedures for retiring unpaid tax liabilities through stipulated time payment agreements that are based on the taxpayer's financial position and the best interests of the state.

(2) Except for the delegations of authority provided in Rule 12-17.004, F.A.C., the rules set forth in this chapter do not apply to any stipulated time payment agreement made a part of:

(a) Any closing agreement executed pursuant to Section 213.21(2)(a), F.S., and Rule 12-13.009, F.A.C.;

(b) Any compliance agreement entered into pursuant to Sections 212.18 or 213.692, F.S.;

(c) Any proceeding pursuant to Chapter 120, F.S.; or

(d) The settlement of any action filed by a taxpayer in circuit court, as provided in Section 72.011, F.S.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 212.18, 213.015(10), 213.21(2)(a), (4), 213.24(3), 213.692 FS. History—New 10-4-89, Amended 4-29-03,_____.

12-17.002 Definitions.

(1) “Department” means the Florida Department of Revenue.

(2) “Taxpayer” means any person, as defined in Section 1.01, F.S., required to remit any tax, surtax, surcharge, or fee listed ~~interest, or penalty to the Department under any of the tax laws enumerated in Section 213.05~~ 72.011(1), F.S., that is administered, regulated, controlled, and collected by the Department, and any employing unit required to pay any contribution or reimbursement required under Chapter 443, F.S.

(3) “Stipulated time payment agreement” means a written agreement entered into by the Department and taxpayer which schedules payments of outstanding liabilities ~~a liability for tax, interest, or penalty~~ over a specified period of time.

~~(4) “Closing agreement” means a written agreement entered into by the Department and a taxpayer pursuant to Rule 12-13.009, F.A.C.~~

~~(4)(5)~~ “Collection action” means the issuance of a delinquent notice or billing, a tax warrant or notice of lien, or any other attempt to obtain payment of an unpaid amount. The term “collection action” does not include an attempt by an auditor to collect an assessment arising from the performance of an audit by such auditor.

(5) “Outstanding liabilities” means any unpaid taxes, surtaxes, surcharges, or fees listed in Section 213.05, F.S., that are administered, regulated, controlled, and collected by the Department, or any unpaid contributions or reimbursements required under Chapter 443, F.S. Outstanding liabilities also include any associated penalties, interest, fees, or collection costs.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21(4), 213.24(3), 213.69, 443.1316 FS. History–New 10-4-89, Amended 4-29-03, _____.

12-17.003 Requirements for Considering Entering into Stipulated Time Payment Agreements.

(1) A taxpayer requesting a stipulated time payment agreement must first:

(a) Acknowledge the taxpayer's outstanding liabilities ~~liability for the total amount of tax, interest, or penalty~~ finally determined to be due by the Department; ~~and~~

(b) Demonstrate to the satisfaction of the Department that he or she is currently unable to make a single lump sum payment to fully satisfy outstanding liabilities ~~a liability for tax, interest, or penalty~~, or that a lump sum payment of the amounts due would impose an undue economic or financial hardship on the taxpayer; ~~and~~

(c) Pay all outstanding liabilities ~~debts of tax, penalties, and interest~~ not covered by the requested stipulated time payment agreement due ~~that are owed~~ to the Department.

(2) Pursuant to Section 213.24, F.S., the Department will not agree to a stipulated time payment agreement if the outstanding liabilities ~~amount~~ due from the taxpayer are ~~is~~ less than the costs the Department will incur to administer the taxpayer's stipulated time payment agreement.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History–New 10-4-89, Amended 10-5-92, 4-29-03, _____.

12-17.004 Delegation of Authority.

(1) In addition to the statutory authority granted by Section 213.21(4), F.S., the Executive Director of the Department has authority to enter into agreements with taxpayers for scheduling

payments for outstanding liabilities of taxes, interest, penalties, and fees under authority granted by the Governor and Cabinet as the head of the Department.

(2) The Executive Director of the Department is authorized to issue a delegation of hereby delegates authority setting forth those positions authorized to enter into stipulated time payment agreements with taxpayers under Section 213.21(4), F.S. Any such delegation, to the Deputy Executive Director, the General Counsel, the Deputy General Counsel, and the Program Director, the Deputy Program Director, the Regional Managers, and the Service Center Managers of the General Tax Administration Program of the Department, and:

~~(a) In cases where a tax matter is in litigation or in protest pursuant to Rule Chapter 12-6, F.A.C., to:~~

~~1. The Assistant General Counsels;~~

~~2. The Director, the Deputy Director, and Revenue Program Administrators in Technical Assistance and Dispute Resolution;~~

~~3. The Process Manager and Revenue Program Administrators in the Compliance Support Process.~~

~~4. The Process Manager, Revenue Program Administrators, and Revenue Administrators in the Taxpayer Services Process.~~

~~(b) In cases involving amounts assessed pursuant to an audit of the taxpayer, prior to initiation of litigation pursuant to Section 72.011, F.S., or expiration of the period for initiating same, to:~~

~~1. The Tax Audit Supervisors, Revenue Administrators, and Senior Revenue Administrators in the Director's Office of the General Tax Administration Program; and~~

~~2. The Process Manager, Revenue Program Administrators, Tax Law Specialists,~~

~~Government Analysts II, and Senior Tax Specialists in the Compliance Support Process.~~

~~(e) In cases involving a billing or assessment issued by the General Tax Administration Program, to:~~

~~1. The Revenue Program Administrators, Tax Audit Supervisors, Senior Revenue Administrators, and Revenue Administrators in the Director's Office; and~~

~~2. The Process Manager, Revenue Program Administrators, Tax Specialist Administrator, Revenue Administrators, Revenue Managers, and Revenue Specialists in the Taxpayer Services Process.~~

~~(d) When the Executive Director delegates authority to sign stipulated time payment agreements to specific employees or positions that are not provided in this rule, the delegation of authority will be in writing, signed by the Executive Director, and will be for a specified time period. The renewal of such delegations will also be in writing, signed by the Executive Director. Copies of written delegations of authority are maintained on file with the agency clerk in the Office of General Counsel.~~

Rulemaking Authority 20.05(1)(e), 213.06(1), 213.21(5) FS. Law Implemented 213.21(4), 213.24(3) FS. History—New 10-4-89, Amended 10-5-92, 8-17-94, 4-29-03, 9-13-10,_____.

12-17.005 Factors Considered by the Department. The Department will apply one or more of the following factors when determining whether to enter into a stipulated time payment agreement, ~~and~~ in determining the existence of undue economic or financial hardship or the inability of a taxpayer to satisfy outstanding liabilities ~~a liability for tax, interest, or penalty~~ in a lump sum, and in determining the terms of the stipulated time payment agreements:

(1) The taxpayer's previous payment record with the Department;

- (2) The taxpayer's ability to meet a payment schedule obligation;
- (3) The payment amount and the length of time required to retire the outstanding liabilities liability;
- (4) The future outlook of the taxpayer's business and the industry;
- (5) The financial impact on the taxpayer if required to make a lump sum payment;
- (6) Whether the taxpayer collected, but did not remit, the tax addressed by the agreement;
- (7) Whether the taxpayer institutes business practices to ensure the proper collection and remittance of tax in the future;
- (8) Whether the state would eventually receive more of the taxes due by entering into a stipulated time payment agreement than by requiring a lump sum payment;
- (9) Any recommendation submitted by a Department department auditor based on an examination of the taxpayer's records; and
- (10) Any additional written information the taxpayer presents for the Department's consideration.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History—New 10-4-89, Amended 4-29-03,_____.

12-17.006 Procedures.

(1) In instances where the Department does not already have the following information and items, a taxpayer requesting a stipulated time payment agreement must provide the following relief under this chapter shall provide such information and items to the Department:

- (a) Taxpayer's name, address, business partner number, federal employer identification number ~~or social security number~~, audit identification number, and all account identification

numbers requested ~~number issued~~ by the Department;

(b) Any outstanding tax returns identifying any tax due, by tax type, and the taxable period(s) that apply (any outstanding liabilities ~~penalty and interest~~ that is due will be computed at the time the agreement is completed);

(c) An acknowledgment of the outstanding liabilities ~~liability for the total amount of tax, fees, collection costs, or other amounts assessed, and interest, and penalty~~ determined to be due by the Department, and that ~~Section 213.21(2)(a), F.S., eliminates the~~ taxpayer agrees to waive any and all taxpayer's rights, or purported rights, to institute any administrative or judicial proceedings to recover, compromise, defer, restructure, avoid, challenge, or reduce any outstanding liabilities paid or payable pursuant to the agreement under Section 72.011, F.S., with respect to the acknowledged liability;

(d) An oral or written explanation regarding the factual basis for the undue hardship or current inability to satisfy the outstanding liabilities ~~liability~~ in a lump sum and documentary evidence to support the taxpayer's basis for relief; and

(e) A proposal for satisfaction of the outstanding liabilities ~~liability~~ that ~~for tax, interest, and penalty~~ wherein the taxpayer indicates projected cash flow for the succeeding 12 months.

~~(2) Where the tax, interest, or penalty is assessed as a result of an audit of the taxpayer, the taxpayer shall file the written request with the Process Manager, Compliance Support Process, Department of Revenue, P. O. Box 5139, Tallahassee, Florida 32314-5139, prior to the date an assessment becomes final. Upon execution of the stipulated agreement, it will be referred to the Taxpayer Services Process for administration.~~

~~(3) In cases involving notices, billings, jeopardy assessments, audit assessments, and tax warrants referred for collection, and tax warrants issued by the Department, the taxpayer shall~~

~~file the information and items required by subsection (1) with the office which issued the notice, billing, jeopardy assessment, audit assessment, or tax warrant.~~

~~(4) In those instances where a protest is referred to the Office of Technical Assistance and Dispute Resolution (the Office) by the Compliance Enforcement Process, the Compliance Support Process, or the Taxpayer Services Process, all final assessments will be referred back to the originating process. If a taxpayer has requested a payment agreement, and the Office agrees that the taxpayer qualifies pursuant to this rule chapter, the Office will include, as part of the closing agreement, the terms of any stipulated payment plan that the Office has determined is appropriate pursuant to Section 213.21(4), F.S.~~

~~(5) On receipt of the taxpayer's request for a stipulated time payment agreement, the Department will take any of the following additional actions required by the taxpayer's specific circumstances:~~

~~(a) The Department will issue a warrant for the total liability for any one or more of the following reasons:~~

- ~~1. To protect the state's interest in the taxpayer's assets;~~
- ~~2. To establish priority in real or tangible property rights;~~
- ~~3. To establish priority in the event of possible bankruptcy;~~
- ~~4. To prevent the disposal of assets without the state's consent;~~
- ~~5. The taxpayer has failed to respond to previous collection actions by the Department; or~~
- ~~6. The taxpayer has a previous history of delinquent filings or payments.~~

~~(b) The issuance of levy instructions to the Sheriff to execute the warrant will be withheld as long as:~~

- ~~1. This stipulated time payment agreement is in force and the taxpayer has not defaulted~~

~~under the terms of the agreement; and~~

~~2. The taxpayer is in complete compliance with all other requirements of the revenue laws.~~

~~(e) The Department will also investigate the financial position of the taxpayer, when the Department determines that the information submitted pursuant to subsection (1) requires confirmation.~~

~~(2)(6)~~ After consideration of the taxpayer's request for relief, the Department will ~~shall~~:

(a) Accept the request by executing a stipulated time payment agreement; or

(b) Reject the request in whole or in part; or

(c) Make a counter-proposal.

~~(3)(7)~~ No change.

~~(4)(8)~~ A request for a stipulated time payment agreement which is not accepted on behalf of the Department will ~~shall~~ not be deemed an admission of liability pursuant to Section 90.408, F.S. by the Department or the taxpayer and will not prejudice either party's position in ~~administrative or judicial proceedings.~~

Rulemaking Authority 20.05(1)(e), 213.06(1), 213.21(5) FS. Law Implemented 90.408, 213.05, 213.21(2), (4), 213.24(3), 443.1316, 443.141 FS. History—New 10-4-89, Amended 10-5-92, 4-29-03, _____.

12-17.007 Form and Execution of Stipulated Time Payment Agreements.

(1) Every stipulated time payment agreement executed under this chapter will ~~shall~~ specify the name, business partner number, account identification number, and audit identification number, if applicable, of the taxpayer; the taxpayer's current business address and

the current address of the physical location of the business; the type of ~~tax~~ tax(es) and the taxable ~~periods~~ period(s) covered; the date of the ~~proposed~~ assessment, ~~or~~ warrant, or notice of lien, and the terms of the agreement.

~~(2) The Department prescribes form DR-68 (Stipulated Time Payment Agreement), as the form to be used by the Department for the purposes of this chapter.~~

~~(2)(3)~~ Every stipulated time payment agreement must ~~shall~~ be signed on behalf of the Department by a person with delegated authority to enter into the agreement under Rule 12-17.004, F.A.C.

~~(3)(4)~~ Every stipulated time payment agreement must ~~shall~~ be signed by the taxpayer or the taxpayer's representative with authority to enter into the agreement on behalf of the taxpayer.

(a) In the case of a corporate taxpayer, an officer of the corporation must ~~shall~~ sign the agreement unless paragraph (c) of this subsection is applicable.

(b) An officer's or fiduciary's signature on a stipulated time payment agreement made by or for a taxpayer is ~~shall be~~ prima facie evidence that such individual was authorized to sign the agreement on behalf of the taxpayer.

(c) A stipulated time payment agreement may be signed by a representative of the taxpayer who files with the Department a Power of Attorney and Declaration of Representative (Form DR-835, incorporated by reference in Rule 12-6.0015, F.A.C.) ~~power of attorney form (DR-835), which grants the representative authority to execute the agreement on behalf of the taxpayer.~~

~~(4)(5)~~ A stipulated time payment agreement will become effective when it has been executed by all ~~both~~ parties. Any modification of the terms of the agreement must be in writing and executed by all parties. Upon presentation of the agreement, the Department will provide the

taxpayer with a:

~~(a) A detailed amortization schedule of payments required for satisfaction of the outstanding liabilities tax, interest, and penalty referenced in the stipulated time payment agreement, which will be placed on the stipulated time payment agreement above the signature lines; and.~~

~~(b) Payment coupons.~~

~~(6) Form DR-68 is incorporated by reference in Rule 12-17.010, F.A.C., and can be obtained as discussed in that rule.~~

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21(2), (4), 213.24(3), 213.69, 443.1316 FS. History—New 10-4-89, Amended 10-5-92, 8-17-94, 4-29-03, _____.

12-17.008 Terms of Stipulated Time Payment Agreements.

(1) Every stipulated time payment agreement will include a discussion and determination of each of the following issues:

(a) The number of payments to be made during the term of the agreement (~~e.g., 6, 12, or 24 payments~~);

(b) The frequency and due date of each payment to be made during the term of the agreement (~~e.g., weekly, bi-weekly, or monthly~~);

(c) The amount of any ~~Whether a~~ down payment and the amount of each payment to be made during is required, as part of the term terms of the agreement ~~and the amount of such down payment~~;

~~(d) Whether each payment will be an equal amount (e.g., an equal amount due each~~

payment period), or equal payments with the final payment being a balloon payment);

~~(d)~~(e) How the Department will allocate each payment to reduce the outstanding liabilities, debt of tax, penalty, or interest as provided by Section 213.75, F.S.;

~~(f) Whether any portion of the liability will remain unpaid at the end of the current payment agreement, and if so, which of the following actions will be taken by the Department:~~

~~1. The terms and conditions of another payment agreement will be negotiated upon full compliance with the current agreement; or~~

~~2. The Department will request the taxpayer to pay the unpaid balance in full based on:~~

~~a. The taxpayer's failure to fully comply with the current agreement; or~~

~~b. An improvement in the taxpayer's financial condition.~~

~~(2) A down payment in a stipulated time payment agreement will be based upon the taxpayer's filing and payment history, the amount of the outstanding liabilities, and any financial information provided by the taxpayer reflecting the taxpayer's ability to pay. The determinations made in paragraphs (1)(a) through (f) of this rule by the Department will be based on the factors contained in Rule 12A-17.005 and subsection 12-17.006(5), F.A.C.~~

~~(3) Where there is risk to the state regarding collection of the amount due, additional terms will be included in a stipulated time payment agreement.~~

~~(4)(3) Every stipulated time payment agreement will made pursuant to this chapter shall include a notification to the taxpayer that:~~

~~(a) Interest will shall continue to accrue on the unpaid balance of the tax at the stated rate, provided by law; and~~

~~(b) The taxpayer agrees to waive any and all rights, or purported rights, to institute any judicial or administrative proceeding to recover, compromise, defer, restructure, avoid, challenge~~

~~or reduce any outstanding liabilities paid or payable pursuant to the agreement. The Department will file a lien for the full amount of the unpaid liability, unless the Department representative who negotiates the agreement documents in writing the reason(s) for not filing a lien (any reason documented by the representative is acceptable). Also, the establishment of a stipulated time payment agreement does not invalidate or withdraw a warrant issued with respect to the liability covered by the agreement;~~

(c) The taxpayer agrees to accurately complete and timely file all required tax returns and timely remit all taxes that become due during the term of the agreement.

(d) The taxpayer agrees to pay each stipulated time payment to the Department by electronic means on or before the due date, unless a variance or waiver is granted pursuant to Section 120.542, F.S., and Rule Chapter 28-104, F.A.C.

(e) The taxpayer understands that the provisions of Section 213.732, F.S., relating to jeopardy assessments continue to apply during the term of the agreement.

~~(f)~~(e) The current stipulated time payment agreement will be void if the taxpayer will be held in default of the term of the stipulated time payment agreement when the taxpayer fails to comply:

- ~~1. Comply with all terms conditions of the agreement.;~~1. Comply with all terms conditions of the agreement.;
- ~~2. Submit all returns and pay all taxes in full pursuant to the revenue laws of Florida enumerated in Section 213.05, F.S., that become due during the term of the agreement.~~

~~(d) The provisions of the statutes relating to jeopardy assessments will continue to apply to a taxpayer who has entered into a stipulated time payment agreement.~~

~~(e) A taxpayer must submit cash, a cashier's check, or a money order to the Department within seven calendar days of being informed that he or she has paid a stipulated time payment~~

~~with a check that is not valid due to insufficient funds.~~

~~(f) Explains the rights granted to each taxpayer by subsection (2) of Rule 12-17.009, F.A.C., to protest the termination of a stipulated time payment agreement.~~

(g) If the taxpayer is held in default of the terms of the agreement, the Department will implement one or more of the following actions:

1. Issue a warrant or notice of lien for any outstanding liability and file a judgment lien certificate;

2. Issue levy instructions to the sheriff;

3. Refer the outstanding liability to the Department of Business and Professional Regulation for license action;

4. Implement the garnishment provisions of Section 213.67, F.S.;

5. Implement the provisions of Sections 212.18 and 213.692, F.S., to revoke all certificates of registration, permits, or licenses issued by the Department to the taxpayer;

6. Implement the provisions of Section 443.141, F.S., for collection of the outstanding contributions or reimbursements;

7. Assess the responsible person a penalty pursuant to Section 213.29, F.S.; or

8. Any other action provided by law to collect all outstanding liabilities.

(h) If the taxpayer fails to comply with the terms of the agreement, the Department is entitled to recover the outstanding liabilities, including attorney's fees.

(i) The waiver by the Department of any breach of a stipulated time payment agreement by the taxpayer does not constitute a waiver of any other breach.

(5) When a taxpayer is in compliance with the terms of a stipulated time payment agreement, the Department agrees not to commence any additional collection activities for the

outstanding liabilities. However, the provisions of Sections 213.732 and 443.141, F.S., relating to jeopardy assessments continue to apply during the terms of the agreement.

(6) The amount of the outstanding liabilities identified in any stipulated time payment agreement is subject to increase when the Department discovers through audit or otherwise that the outstanding liabilities have been understated. If the Department discovers through audit or otherwise that the outstanding liabilities are understated, the taxpayer will be assessed the additional liabilities. The taxpayer may protest the additional outstanding liabilities assessed, as provided in Rule Chapter 12-6, F.A.C.

Rulemaking Authority 20.05(1)(e), 213.06(1), 213.21(5) FS. Law Implemented 213.21(2), (4), 213.24(3), 213.69, 443.1316 FS. History—New 10-4-89, Amended 10-5-92, 6-15-93, 4-29-03, _____.

12-17.009 ~~Termination of~~ Agreements in Default.

(1) A taxpayer who fails to comply with the terms of ~~The Department will void a stipulated time payment agreement~~ will be held in default. ~~under one or both of the following conditions:~~

~~(a) The taxpayer fails to make full payment when due under the terms of the agreement,~~
~~or;~~

~~(b) The taxpayer fails to remit in full amounts which become due and payable after the execution of the agreement.~~

(2) In the absence of jeopardy as provided in Section 213.732, F.S., before holding a taxpayer in default of ~~Before voiding~~ a stipulated time payment agreement, the Department will notify the taxpayer in writing of the taxpayer's failure to meet the terms of the agreement and

~~provide afford~~ the taxpayer the opportunity to present evidence of compliance with the current agreement, ~~unless jeopardy to the revenue has previously been assessed.~~

(a) If the taxpayer fails to present evidence of compliance ~~respond to this notification~~ within 15 consecutive calendar days of the date on the notification from the Department, the taxpayer will be held in default of the terms of the agreement ~~is voided~~.

(b) If the taxpayer agreement is held in default ~~voided~~ by the Department, the taxpayer will shall have an additional 15 consecutive calendar days after the date the Department notifies the taxpayer ~~that the agreement has been voided~~ to request that the Department reconsider ~~voiding the agreement~~ and to submit written proof that there are “reasonable cause” grounds for not holding ~~voiding~~ the agreement in default, pursuant to the “reasonable cause” provisions in Section 213.21, F.S., and Rule 12-13.007, F.A.C.

(c) If the taxpayer does not establish “reasonable cause” within the 15 consecutive calendar day period ~~discussed in paragraph (b) of this subsection~~, the Department’s decision that the taxpayer is in default of the terms of ~~to void~~ the agreement becomes ~~is~~ final.

(3) Any outstanding liabilities that remain ~~Should the Department void the agreement,~~ any unpaid balance due at under the time a taxpayer is held in default of the terms of a stipulated time payment agreement are ~~is~~ immediately due and payable.

(4) If subsection (1) is applicable or if an agreement has otherwise expired, the Department will implement one or more of the following steps:

(a) ~~Issue levy instructions to the sheriff to issue a warrant for the remaining liability or execute that warrant or a warrant previously issued with respect to the liability.~~

(b) ~~Refer the issue to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation for beverage license action;~~

~~(c) Implement the garnishment provisions of Section 213.67, F.S., and Part II of Rule Chapter 12-21, F.A.C.;~~

~~(d) Implement the collection referral provisions of Section 213.27, F.S.; and~~

~~(e) Cancel the sales tax registration certificate of a taxpayer pursuant to Section 212.18(3)(b), F.S.~~

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(2), (4), 213.24(3), 213.27, 213.67, 213.69, 213.692, 443.1316 FS. History—New 10-4-89, Amended 4-29-03,_____.

~~12-17.010 Public Use Forms. The following public use forms are used by the Department in the processing and scheduling of stipulated time payment agreements and are hereby incorporated by reference. These forms are available by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850) 922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850) 922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800) 352-3671 (in Florida only) or (850) 488-6800; or, 6) downloading selected forms from the Department's Internet site stated in the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331.~~

Form Number	Title	Effective Date
DR-68	Stipulated Time Payment Agreement	
	(n. 02/03)	04/03

Rulemaking Authority 213.06(1) FS. Law Implemented 213.21(4) FS. History—New 4-29-03,

Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULES: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7610.

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 August 31, 2012 (Vol. 38, No. 35, pp. 3559 - 3560), to advise the public of the proposed changes to Rule Chapter 12-17, F.A.C. (Agreements for Scheduling Payments of Liabilities), and to provide that, if requested in writing, a rule development workshop would be held on September 20, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-21, FLORIDA ADMINISTRATIVE CODE

WARRANTS, JEOPARDY, AND POST-WARRANT COLLECTIONS

AMENDING RULES 12-21.001, 12-21.002, 12-21.005, 12-21.010,

12-21.040, 12-21.201, 12-21.203, 12-21.204, AND 12-21.205

CREATING RULES 12-21.0015 AND 12-21.208

REPEALING RULES 12-21.007, 12-21.050, AND 12-21.202

SUMMARY OF PROPOSED RULES

The proposed changes to Part I (Warrants, Liens, Jeopardy, and Levy, Seizure, and Sale of Property) of Rule Chapter 12-21, F.A.C., Rules 12-21.001 through 12-21.050, F.A.C.: (1) change the title of the chapter part to more accurately reflect the scope of Part I of the chapter; (2) provide that the scope of the rule chapter covers instances in which the Department issues a warrant with regard to any tax it administers; (3) provide that delegations of authority authorized by the Executive Director of the Department to issue, satisfy, cancel, or amend warrants and judgment lien certificates, to issue and release jeopardy assessments and related warrants and judgment lien certificates, to issue an execution to a sheriff, and to levy, freeze, or sell a taxpayer's property will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel; (4) provide definitions of terms applicable to the entire rule chapter; (5) clarify when the Department will issue a warrant and file a judgment lien certificate; (6) update provisions to reflect the current provisions of Chapter 55, F.S. (Judgments), regarding the filing of a judgment lien certificate with the Department of State to

obtain a lien upon a taxpayer's personal property; (7) provide the duration of the Department's lien; (8) clarify when the Department will consider jeopardy to the revenue to exist, and state what factors the Department will consider in determining whether collection will be jeopardized by delay; (9) provide the notice requirements and review rights with regard to a notice or finding of the facts constituting jeopardy to the revenue, pursuant to Section 213.732, F.S.; (10) repeal as unnecessary Rule 12-21.007, F.A.C., Seizure of Property Without Jeopardy; (11) clarify and update provisions regarding the manner and conditions of sale of taxpayer property; (12) clarify and update provisions regarding satisfaction, cancellation, and amendment of warrants and judgment liens; and (13) repeal the adoption of forms in Rule 12-21.050, F.A.C., Public Use Forms, that do not meet the definition of a "rule" in Section 120.52(15), F.S., as unnecessary.

The proposed changes to Part II (Administrative Garnishment for Unpaid Taxes) of Rule Chapter 12-21, F.A.C., Rules 12-21.201 through 12-21.208, F.A.C.: (1) provide that the scope of Part II of the rule chapter is to implement the provisions of Section 213.67, F.S.; (2) clarify that the Department will exercise the authority to freeze a taxpayer's assets pursuant to Sections 206.18(4) and 213.758, F.S., at the same time and in the same manner as provided in Section 213.67, F.S., and Part II of this chapter; (3) repeal Rule 12-21.202, F.A.C., Definitions, to eliminate definitions of terms that are provided in Part I of the rule chapter, as amended; (4) update provisions regarding the issuance of a Notice of Freeze to custodians of a delinquent taxpayer's assets; (5) update provisions regarding the issuance of a Notice of Intent to Levy to delinquent taxpayers; (6) update provisions regarding levying upon a delinquent taxpayer's assets; and (7) provide procedures for Section 213.67(9), F.S., which authorizes the Department to withhold and levy upon certain payments by the State scheduled to persons with outstanding tax warrants.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12-21, F.A.C., are necessary to: (1) change the title of the rule chapter to “Warrants, Jeopardy, and Post-Warrant Collections,” to reflect the scope of the chapter, as revised; (2) provide in the rule chapter the current procedures used by the Department in warrant, jeopardy, and post-warrant collections situations; (3) eliminate unnecessary references to forms and obsolete provisions; and (4) update and incorporate into the rule chapter applicable provisions of Rule 12A-1.090, F.A.C., Tax Liens, Garnishment and Jeopardy Assessments, which will be repealed.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

SEPTEMBER 20, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on August 31, 2012 (Vol. 38, No. 35, pp. 3560 - 3561), to advise the public of the proposed changes to Rule Chapter 12-21, F.A.C. (Warrants, Jeopardy, and Post-Warrant Collections), and to provide that, if requested in writing, a rule development workshop would be held on September 20, 2012. No request was received by the Department. No written comments were received by the Department.

After further review of provisions regarding delegations of authority issued by the Executive Director of the Department, the proposed provisions of subsection (2) of Rule 12-

21.001, F.A.C. (Scope; Delegation of Authority) were revised to provide that delegations of authority authorized by the Executive Director of the Department to issue, satisfy, cancel, or amend warrants and judgment lien certificates, to issue and release jeopardy assessments and related warrants and judgment lien certificates, to issue an execution to a sheriff, and to levy, freeze, or sell a taxpayer's property will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel

After further review of the provisions of paragraph 213.67(6)(b), F.S., the proposed provisions of paragraph (2)(b) of Rule 12-21.205, F.A.C. (Departmental Levy on Frozen Assets; Procedures), were revised.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

WARRANTS, JEOPARDY, AND POST-WARRANT COLLECTIONS

RULE NO.: RULE TITLE:

Part I - Warrants, Liens, Jeopardy, and Levy, Seizure, and Sale of Property

12-21.001 Scope; Delegation of Authority

12-21.0015 Definitions

12-21.002 Warrants and Liens

12-21.005 Seizure of Property Under Jeopardy

12-21.007 Seizure of Property Without Jeopardy

12-21.010 Manner and Conditions of Sale of Property

12-21.040 Satisfaction or Correction of Warrants and Liens

12-21.050 Public Use Forms

Part II - Administrative Garnishment for Unpaid Taxes

12-21.201 Scope

12-21.202 Definitions

12-21.203 Notification to Custodians; Custodial Responsibilities

12-21.204 Issuance of Notice of Intent to Levy; Procedures

12-21.205 Departmental Levy on Frozen Assets; Procedures

12-21.208 Withholding of Vendor Payments

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12-21, F.A.C., is to: (1) change the title of the rule chapter to “Warrants, Jeopardy, and Post-Warrant Collections,” to reflect the scope of the chapter, as revised; (2) provide in the rule chapter the

current procedures used by the Department in warrant, jeopardy, and post-warrant collections situations; (3) eliminate unnecessary references to forms and obsolete provisions; and (4) update and incorporate into the rule chapter applicable provisions of Rule 12A-1.090, F.A.C., Tax Liens, Garnishment and Jeopardy Assessments, which will be repealed.

SUMMARY: The proposed changes to Part I (Warrants, Liens, Jeopardy, and Levy, Seizure, and Sale of Property) of Rule Chapter 12-21, F.A.C., Rules 12-21.001 through 12-21.050, F.A.C.: (1) change the title of the chapter part to more accurately reflect the scope of Part I of the chapter; (2) provide that the scope of the rule chapter covers instances in which the Department issues a warrant with regard to any tax it administers; (3) provide that delegations of authority authorized by the Executive Director of the Department to issue, satisfy, cancel, or amend warrants and judgment lien certificates, to issue and release jeopardy assessments and related warrants and judgment lien certificates, to issue an execution to a sheriff, and to levy, freeze, or sell a taxpayer's property will be in writing, signed by the Executive Director, and maintained by the agency clerk in the Office of the General Counsel; (4) provide definitions of terms applicable to the entire rule chapter; (5) clarify when the Department will issue a warrant and file a judgment lien certificate; (6) update provisions to reflect the current provisions of Chapter 55, F.S. (Judgments), regarding the filing of a judgment lien certificate with the Department of State to obtain a lien upon a taxpayer's personal property; (7) provide the duration of the Department's lien; (8) clarify when the Department will consider jeopardy to the revenue to exist, and state what factors the Department will consider in determining whether collection will be jeopardized by delay; (9) provide the notice requirements and review rights with regard to a notice or finding of the facts constituting jeopardy to the revenue, pursuant to Section 213.732, F.S.; (10) repeal as unnecessary Rule 12-21.007, F.A.C., Seizure of Property Without Jeopardy; (11) clarify and

update provisions regarding the manner and conditions of sale of taxpayer property; (12) clarify and update provisions regarding satisfaction, cancellation, and amendment of warrants and judgment liens; and (13) repeal the adoption of forms in Rule 12-21.050, F.A.C., Public Use Forms, that do not meet the definition of a “rule” in Section 120.52(15), F.S., as unnecessary.

The proposed changes to Part II (Administrative Garnishment for Unpaid Taxes) of Rule Chapter 12-21, F.A.C., Rules 12-21.201 through 12-21.208, F.A.C.: (1) provide that the scope of Part II of the rule chapter is to implement the provisions of Section 213.67, F.S.; (2) clarify that the Department will exercise the authority to freeze a taxpayer’s assets pursuant to Sections 206.18(4) and 213.758, F.S., at the same time and in the same manner as provided in Section 213.67, F.S., and Part II of this chapter; (3) repeal Rule 12-21.202, F.A.C., Definitions, to eliminate definitions of terms that are provided in Part I of the rule chapter, as amended; (4) update provisions regarding the issuance of a Notice of Freeze to custodians of a delinquent taxpayer’s assets; (5) update provisions regarding the issuance of a Notice of Intent to Levy to delinquent taxpayers; (6) update provisions regarding levying upon a delinquent taxpayer’s assets; and (7) provide procedures for Section 213.67(9), F.S., which authorizes the Department to withhold and levy upon certain payments by the State scheduled to persons with outstanding tax warrants.

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 administrative rules regarding warrants, judgment lien certificates, jeopardy assessments, and administrative garnishment for unpaid taxes and rules of this nature, the adverse impact or regulatory cost, if any, does 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: 198.08, 199.202, 202.26(3), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 55.10, 55.202, 55.204, 56.27, 95.091, 198.01, 198.20, 198.22, 198.33, 199.262, 201.16, 202.11, 202.33, 202.35, 202.36, 206.01, 206.075, 206.18, 206.97, 206.9835, 206.9915, 211.01, 211.125, 211.33, 212.02, 212.12, 212.14, 212.15, 213.67, 213.69, 213.73, 213.731, 213.732, 213.733, 213.74, 213.75, 213.758, 220.03, 220.813, 220.819, 220.827, 220.829, 336.021, 336.025, 403.718(3)(a), 403.7185(3)(a), 443.131(3)(g), 443.1316, 538.11, 624.5092, 681.117 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: Thomas Butscher, Assistant General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, telephone (850)617-8347.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-21, FLORIDA ADMINISTRATIVE CODE

WARRANTS, JEOPARDY, AND POST-WARRANT COLLECTIONS

~~LEVY, SEIZURE AND SALE OF PROPERTY~~

AMENDING RULES 12-21.001, 12-21.002, 12-21.005, 12-21.010,

12-21.040, 12-21.201, 12-21.203, 12-21.204, AND 12-21.205

CREATING RULES 12-21.0015 AND 12-21.208

REPEALING RULES 12-21.007, 12-21.050, AND 12-21.202

PART I WARRANTS, LIENS, JEOPARDY, AND LEVY,

SEIZURE, AND SALE OF PROPERTY

12-21.001 Scope; Delegation of Authority.

(1) This chapter covers instances all-eases in which the Department issues a warrant with regard to any tax it administers tax assessments, whether or not final, proceed to levy and seizure of taxpayers' property by the Sheriff. The filing of a warrant and associated judgment lien certificate establish the State of Florida's interest and priority as a creditor. Parts I and II of this chapter indicate when the Department will take additional enforcement actions. This chapter also applies to all sales of seized property made by the Department pursuant to Section 213.73, F.S.

(2) The Executive Director of the Department is authorized to issue a delegation of authority setting forth those positions that are authorized to issue, satisfy, cancel, amend, release, in whole or in part, or withdraw warrants, and to subordinate the Department's lien, to issue and release jeopardy assessments and related warrants, to issue an execution to a sheriff, and to

freeze, levy, or sell a taxpayer's property. Any such delegation will be in writing, signed by the Executive Director. Copies of written delegations of authority are maintained on file with the agency clerk in the Office of the General Counsel.

Rulemaking Specific Authority 198.08, ~~72.011(2)~~, ~~120.54(1)~~, 199.202, 202.26(3), 212.18(2), 213.06(1) FS. Law Implemented 55.10, 55.202, 55.204, 56.27, 198.20, 198.22, 198.33, 199.262, 201.16, 202.33, 202.36, 206.075, 206.18, 206.97, 206.9835, 206.9915, ~~207.014~~, 211.125, 211.33, 212.14, 212.15, 213.67, 213.69, 213.73, 213.731, 213.732, 213.733, 213.74, 213.75, 213.758, 220.827, 220.829, 336.021, 336.025, 403.718(3)(a), 403.7185(3)(a), 443.1316, 538.11, 624.5092, 681.117 FS. History-New 7-1-88, Amended _____.

12-21.0015 Definitions. For the purposes of this Chapter, the following terms and phrases are defined as:

(1) "Assets" means any personal property, credits, or debts, owned by or owed to a delinquent taxpayer, excluding wages. For the purposes of Part I of this Chapter, "assets" also includes real property.

(2) "Custodian" means any person, as defined in Section 212.02(12), F.S., the Federal Government, or any agency or instrumentality of the Federal Government, having control or possession of any assets owned by, or owed to, any delinquent taxpayer.

(3) "Delinquent taxpayer" means any taxpayer that has been notified of any tax, fee, surcharge, penalty, interest, administrative fees, or costs of collection owed to the Department, and the time period for disputing the debt has expired.

(4) "Department" means the Florida Department of Revenue.

(5) "Final resolution" means that all review rights have been exhausted or expired.

(6) “Intangible personal property” means all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents, such as:

(a) All stocks or shares of incorporated or unincorporated companies, business trusts, and mutual funds;

(b) All notes, bonds, and other obligations for the payment of money; or,

(c) Money, including United States legal tender, certificates of deposit, cashier’s and certified checks, bills of exchange, drafts, the cash equivalent of annuities and life insurance policies, and similar instruments.

(7) “Personal property” means intangible personal property or tangible personal property.

(8) “Tangible personal property” means tangible personal property as defined in Section 212.02(19), F.S.

(9) “Wages” means all remuneration for employment paid or owed to a taxpayer (and the cash value of all remuneration paid in any medium other than cash), including salaries, hourly wages, commissions, bonuses, back pay awards, and tips or gratuities received while performing services which constitute employment.

(10) “Warrant” includes any tax warrant, notice of lien, or other warrant issued to secure payment of delinquent taxes, fees, or surcharges, together with the interest, penalties, administrative fees, and costs of collection.

Rulemaking Authority 198.08, 199.202, 202.26(3), 212.18(2), 213.06(1) FS. Law Implemented 198.01(1), (3), (10), (11), 201.16, 202.11(4), (8), 202.33, 206.01(1), (10), 206.18, 206.97, 206.9835, 206.9915, 211.01(6), (15), (25), 212.02(5), (12), (19), 213.67, 213.69, 213.73, 213.731, 213.758, 220.03(1)(f), (g), (z), 443.1316 FS. History-New _____.

12-21.002 Warrants ~~Warrant~~ and Liens ~~Instructions for Levy~~.

(1) Warrants. The Department will issue a warrant: ~~Tax warrants and instructions for levy may be issued at the initiation of any office in the Department of Revenue upon the determination that tax liability exists and an assessment has been or is being made thereon. A warrant shall only be so issued based on an assessment. Each tax warrant and instructions for levy, prescribed by the Department, is incorporated by reference in Rule 12-21.050, F.A.C.~~

(a) When an assessment has been made and collection efforts have been unsuccessful;

(b) When an assessment is made pursuant to the provisions of Sections 202.35(3), 202.36(1), 206.18(1) and (2), 212.12(5)(b), 212.14(1), 213.758, or 220.813, F.S.; or

(c) When any tax becomes delinquent and is in jeopardy. When jeopardy is asserted in or with an assessment, the Department will proceed in the manner specified for jeopardy assessment in Section 213.732, F.S., and Rule 12-21.005, F.A.C. However, when jeopardy is asserted in or with an assessment for reemployment tax imposed under the authority of Chapter 443, F.S., the Department will proceed as provided in Section 443.141(3)(g), F.S.

(2) When any tax becomes delinquent, but there is no jeopardy, the Department must provide the taxpayer 30 days notice, informing the taxpayer that a warrant will be issued or notifying the taxpayer that such action is indicated or authorized under the circumstances.

~~Instructions for levy shall be made in the appropriate format consistent with the guidelines of each Sheriff.~~

(3)(a) Each warrant will be issued for the amount of tax, fees, and surcharges due or estimated to be due, together with the interest, penalties, administrative fees, and costs of collection. The warrant will be directed to the sheriff of those counties of the state in which the delinquent taxpayer's property or any part thereof may be situated and will be recorded with the

appropriate Clerk(s) of the Circuit Court. Upon recording, the warrant becomes a lien in favor of the state upon the taxpayer's real property in that county in the same manner as a recorded judgment and in the amount indicated by the warrant. If there is jeopardy to the tax, penalty or interest the person issuing the assessment shall give any required notice of jeopardy findings and hold any required jeopardy meeting with the taxpayer.

(b) When a warrant is issued, the Department will also file a judgment lien certificate with the Department of State, pursuant to the provisions of Chapter 55, F.S. Upon filing, the amount of the judgment lien certificate will become a lien upon the delinquent taxpayer's personal property in this state, wherever located, which is subject to execution.

(c) The lien in favor of the state expires twenty (20) years after the date of the original filing of the warrant. However:

1. Liens for estate taxes arising under the authority of Chapter 198, F.S., are enforceable for twelve (12) years on the gross estate of the decedent, and irrespective of other laws extending such liens, in no event can such liens continue for more than twenty (20) years after the date of death of the decedent, subject to the provisions of Sections 198.22 and 198.33, F.S.;

2. Liens for reemployment assistance tax imposed under Chapter 443, F.S., expire ten (10) years after the date of the original filing of the warrant; and

3.a. Liens for corporate income tax imposed under Chapter 220, F.S., created by an assessment pursuant to a notice of deficiency will expire unless a warrant is filed within five (5) years from the date proceedings in court for review have terminated or the time for initiating such review has expired.

b. Liens for corporate income tax imposed under Chapter 220, F.S., created by assessment pursuant to the filing of a return without payment of the tax, penalty, or interest shown to be due

will expire unless a warrant is filed within five (5) years from the date such return was filed.

(d) An action to collect tax cannot be commenced after the expiration of the lien securing payment.

(4) The Department will enter into written agreements to subordinate or release a lien (in whole or in part).

(5)(4) The personal liability of a purchaser or transferee pursuant to Sections 206.18(2), 213.758, and 220.829, F.S., does not create a lien upon such purchaser's property. Rather, the procedures outlined in this rule chapter must be followed to create and enforce a lien in favor of the state. If the assessment is settled or compromised then the person issuing the assessment shall proceed consistently with the Sheriff's guidelines to release the property from seizure.

Rulemaking Specific Authority 198.08, 72.011(2), 120.54(1), 199.202, 202.26(3), 212.18(2), 213.06(1) FS. Law Implemented 55.10, 55.202, 55.204(2), 95.091(1)(b), 198.20, 198.22, 198.33, 199.262, 201.16, 202.33(3), 202.35, 202.36, 206.075, 206.18, 206.97, 206.9835, 206.9915, 211.125, 211.33, 212.12, 212.14, 212.15, 213.69, 213.73, 213.731, 213.732, 213.758, 220.813, 220.827, 220.829, 213.74, 213.75, 336.021, 336.025, 403.718(3)(a), 403.7185(3)(a), 443.131(3)(g), 538.11, 624.5092, 681.117 FS. History-New 7-1-88, Amended 8-10-92,_____.

12-21.005 Seizure of Property Under Jeopardy.

(1) Jeopardy Determinations. Jeopardy will be asserted in or with an assessment if at least one of the following conditions is present: A taxpayer may secure review of a lien or lien and seizure effected under this section by implementing the provisions of subsection (2) of this section, without prejudicing later judicial or administrative proceedings. Jeopardy may be considered to exist where a taxpayer is about to depart from the state, to conceal its property, or

~~to do any other act tending to prejudice or render wholly or partly ineffectual the normal procedures for collection of any amount of tax, penalty, or interest which the Department determines is due, or if the Department otherwise finds that the collection of such amount will be jeopardized by delay. Jeopardy may be considered to exist in the case of billings where the taxpayer has ceased to make regular tax payments and the estimated deficiency is deemed or appears to be substantial. The Department shall issue to the taxpayer a notice of such jeopardy findings.~~

(a) The Department has cause to believe the taxpayer is about to depart from the state;

(b) The Department has cause to believe the taxpayer is about to do any act tending to prejudice or render wholly or partly ineffectual the normal procedures for collection of any amount of tax, fee, surcharge, penalty, interest, administrative fee, or cost of collection that the Department determines is due;

(c) The Department has cause to believe the taxpayer is concealing or transferring or is about to conceal or transfer its property.

(d) The Department finds that the collection of the amount determined to be due will be jeopardized by delay; or

(e) The taxpayer has ceased to make payments, and the estimated deficiency is substantial for that taxpayer.

(2) In making a determination that the collection of any amount of tax, fee, surcharge, penalty, interest, administrative fee, or cost of collection required to be collected and paid will be jeopardized by delay pursuant to paragraph (1)(d), the Department will consider the following:

~~If any lien or lien and seizure is effected based on jeopardy conditions with or without a final assessment then the originator of the assessment shall immediately notify the taxpayer that the~~

~~taxpayer shall have an opportunity to appear at a meeting within 10 days and make a written statement of why he believes that some or all of the amount is not due or owed or that no jeopardy to the revenue exists. The issuer of the jeopardy finding shall comply with any other applicable requirements such as Section 214.12(2), F.S., prior to initiating any jeopardy lien or seizure.~~

(a) The prior history of the taxpayer's compliance or noncompliance with requirements for reporting and paying any tax; ~~To secure review of a jeopardy lien or lien and seizure, the taxpayer may make a written statement which may include a statement of why he believes no jeopardy exists. The Department may meet informally with the taxpayer before determining whether to release a jeopardy assessment lien or lien and seizure.~~

(b) The type of business, including the transient or nontransient nature of the business; ~~If the taxpayer makes such a statement under subsection (a) of this section, the Department shall determine within 20 days of receipt of such statement whether or not such jeopardy assessment lien or lien and seizure shall be released and shall send written notice to taxpayer of such determination. However, to conclude review of a jeopardy lien or lien and seizure under this section, no further notice of decision shall be required and the assessment shall be a final assessment when issued. To secure review of an assessment the taxpayer must proceed under the provisions of Rule Chapter 12-6, F.A.C.~~

(c) The liquidity of assets; ~~If the assessment is not yet final and if it is in protest, then the originator of the assessment shall notify Technical Assistance and Dispute Resolution of any jeopardy seizure. The Department shall instruct the Sheriff regarding the time frames under which the sale is to take place.~~

(d) The mobility of assets;

(e) The pending sale or transfer of title to assets; or

(f) The financial status of the person or dealer owing the tax, including the existence of money judgments.

(3) A warrant will be issued and recorded simultaneously with or after the issuance of a jeopardy assessment. The procedure in this rule shall be for investigative purposes as specified in Section 120.57(5), Florida Statutes.

(4) Notice and Taxpayer Review Rights. The Department will issue in or with a jeopardy assessment a notice or finding of the specific facts that support a determination that jeopardy to the revenue exists.

(a) This notice informs the taxpayer that:

1. To request a conference with the Department, the taxpayer must contact the office of the Department that issued the jeopardy assessment. The conference must be held within 10 days after issuance of the jeopardy assessment, at a time and place set by the Department.

2. The taxpayer has the opportunity to appear at this conference and make oral and written statements of why the delinquent taxpayer believes no jeopardy exists and why a warrant based upon the jeopardy assessment should be released, if it was recorded.

(b) The conference will be conducted informally and will not be in the nature of a formal evidentiary hearing. The taxpayer may present relevant information, orally or in writing, but discovery and cross-examination will not be allowed. The Department is not required to transcribe the proceedings, but the taxpayer may transcribe the conference at the taxpayer's own expense.

(c) The Department will determine within twenty (20) days after receipt of a taxpayer's statement whether the warrant based upon the jeopardy assessment should be released in whole

or in part. The Department will provide written notice of this determination to the delinquent taxpayer.

(d) When the Department determines, based on the information received at the taxpayer conference, that the warrant based upon the jeopardy assessment should be released in whole or in part, the Department will release or correct the warrant accordingly.

(e) If the Department proceeds to seize or freeze the property of a taxpayer upon a determination of jeopardy:

1. The taxpayer has a right to a meeting with the Department immediately or within 24 hours after requesting such meeting. The Department will determine whether to release the seizure or freeze within 24 hours after the meeting.

2. If the Department does not release the seizure or freeze of property, the taxpayer has the right to request a hearing within five (5) days before the circuit court. The taxpayer and the Department may present evidence with respect to the issue of jeopardy at the hearing. Venue in such an action will lie in the county in which the seizure was effected or, if there are multiple seizures based upon the same assessment, venue will also lie in Leon County.

Rulemaking Specific Authority 198.08, 72.011(2), 120.54(1), 199.202, 202.26(3), 212.18(2), 213.06(1) FS. Law Implemented 198.20, 199.262, 201.16, 202.33(3), 202.36, 206.075, 206.97, 206.9835, 206.9915, 207.014, 211.125, 211.33, 212.14, 212.15, 213.69, 213.73, 213.731, 213.732, 213.733, 213.74, 213.75, 213.758, 220.827, 220.829, 336.021, 336.025, 403.718(3)(a), 403.7185(3)(a), 538.11, 624.5092, 681.117 FS. History-New 7-1-88, Amended, _____.

12-21.007 Seizure of Property Without Jeopardy. Any assessment which is final and on which review rights have been exhausted or have expired shall be enforceable and may proceed

~~to tax warrant, or levy, seizure and sale without regard to the review rights afforded in jeopardy conditions.~~

Rulemaking Specific Authority 72.011(2), 120.54(1), 199.202, 212.18(2), 213.06(1) FS. Law Implemented 199.262, 201.16, 206.075, 206.97, 206.9835, 207.014, 211.125, 212.14, 212.15, 213.69, 213.73, 213.732, 213.74, 213.75, 336.021, 336.025 FS. History-New 7-1-88,

Repealed _____.

12-21.010 Manner and Conditions of Sale of Property.

(1) Manner and Conditions of Sale of Property. ~~The sale~~ Sale of taxpayer property ~~is shall~~ be authorized only after a tax, fee, surcharge, penalty, interest, administrative fee, or cost of collection final assessment has been issued and all review rights under Chapter 72, F.S., have been exhausted or have expired. Notice of sale will shall be ~~given~~ as provided in Chapter 56, F.S. The ~~Executive Director of the Department of Revenue or the Executive Director's designee~~ will ~~may~~ determine a minimum price for the sale of which property that shall be sold ~~which~~ is subject to ~~of a levy, and the sheriff will be advised in writing of the minimum price by the Department whenever a levy is made as a result of an execution upon a tax lien.~~ The Department will consider ~~That determination will be at the discretion of the Executive Director or the Executive Director's designee taking into consideration~~ the value of the property, the extent of the liability, and the expense of making the levy and sale in determining a minimum price. ~~The Sheriff shall be advised in writing of the minimum price for the property. The Sheriff may be appointed the Department's designee under this section.~~

(2) Should the highest bid for the seized property not equal the minimum price established for such property, ~~at the discretion of the~~ Department will ~~Executive Director or the~~

~~Executive Director's designee one of the following dispositions shall be made:~~

(a) Reschedule the ~~The sale may be rescheduled;~~

(b) Declare the ~~The state to be~~ may be declared the purchaser at the minimum such price upon prior request by a state agency, which state agency will pay costs to the sheriff ~~Sheriff~~;

(c) Sell the ~~The property may be sold~~ to the highest bidder; or

(d) Release the ~~The property may be released~~ back to the taxpayer if that action is determined to be in the best interests of the state ~~Department~~.

(3) The manner and conditions of the sale of property seized is ~~shall be~~ governed by the following guidelines:

(a) The sale will ~~may not~~ be conducted ~~in any manner other than~~ by public auction or by public sale under sealed bids. Information concerning time, place, manner, and conditions of the sale will ~~shall~~ be stated in the notice of sale.

(b) Items for sale will ~~shall~~ be offered by individual units, except ~~in cases~~ where similar merchandise may be sold in lots. However, the Department ~~The Executive Director or the Executive Director's designee~~ will sell ~~shall have the option of selling~~ the seized property in aggregate when it determines that ~~if this method~~ will yield a higher bid total than selling the items by individual units ~~is deemed to bring the highest bid~~.

(c) Adjournment of sale may not exceed one month. The ~~Any one of the~~ following reasons are ~~is~~ sufficient for adjournment of a sale:

1. Lack of sufficient bids;
2. Inclement weather;
3. Legal challenges to the bidding process;
4. The best interest of the state ~~department~~; or,

5. A well-founded and good faith belief, based on articulable facts, that collusion in bidding is occurring and is preventing competition or stifling bidding in violation of public policy. ~~If the Department~~ The Department's designee believes such a violation has occurred, it ~~will~~ may cancel all ~~or some of the~~ bid acceptances determined to be in violation of public policy ~~in this event.~~

(d) Payments related to seized property ~~must~~ shall be made by cash, ~~cashier's~~ cashiers check, certified check, or money order.

(e) Upon purchase of seized property when the bid is for \$5,000 or less, the payment ~~must~~ shall be made at the time of sale. When the highest bid exceeds \$5,000, a 20 percent ~~nonrefundable~~ non-refundable deposit ~~must~~ shall be made at time of sale, and the remaining payment ~~must~~ shall be made before 4:30 p.m. ~~on~~ of the next business day. The ~~nonrefundable~~ non-refundable deposit ~~must~~ shall be paid without exception to the Department after other costs are deducted.

(4) Any person whose property has been levied upon may pay the amount due, together with costs and expenses, ~~of the proceeding, if any,~~ to the sheriff ~~Department~~ at any time prior to the sale. Upon ~~and upon~~ such payment, the sheriff ~~Department~~ will appropriately advise the Department ~~Sheriff~~, will restore the such property to such person, and will ~~shall~~ cease all other proceedings in connection with the levy on the such property ~~from the date of such payment.~~

Rulemaking Specific Authority 72.011(2), 120.54(1), 198.08, 199.202, 202.26(3), 212.18(2), 213.06(1) FS. Law Implemented 56.27, 198.20, 198.22, 199.262, 201.16, 202.33(3), 202.36, 206.075, 206.97, 206.9835, 206.9915, 207.014, 211.125, 212.14, 212.15, 213.69, 213.73, 213.731, 213.732, 213.74, 213.75, 213.758, 220.827, 336.021, 336.025, 403.718(3)(a), 403.7185(3)(a), 443.1316, 538.11, 624.5092, 681.117 FS. History-New 7-1-88, Amended _____.

12-21.040 Satisfaction or Correction of Tax Warrants and Liens.

(1) Upon receipt of full payment for any warrant, execution, or judgment (~~Form DR-78~~) ~~filed in public records~~ for any tax administered by the Department, the Department will issue a satisfaction of ~~shall satisfy~~ the lien of record. The Department will record a Satisfaction and Release of Tax Lien ~~satisfaction shall be recorded~~ with the clerk of the circuit court in the county in which the original lien was filed and ~~shall also be recorded~~ in any other public record where the original warrant or a certified copy was recorded, if different from where the original warrant was recorded. The satisfaction of a judgment lien certificate will be accomplished by recording a Judgment Lien Amendment Statement with the Department of State indicating that the Judgment Lien Amendment Statement is a termination of the lien.

(2) The Department will record a Satisfaction and Release of Tax Lien ~~shall satisfy a lien of record~~ ~~filed~~ with the clerk of the court and ~~shall cancel any associated warrant or judgement filed in public records~~ within 30 days of receipt by the Department of payment in full. When payment in full has been tendered by cash, payment will be deemed to have been made when received by the Department. When payment in full has been tendered by certified check, cashier's check, or other guaranteed banking instrument, payment will be deemed to have been made when the instrument is received by the Department, unless cause arises for the Department to believe that the instrument may not be honored or has not been honored. When payment in full has been tendered by personal check, payment will be deemed to have been made when the Department confirms that the check has been deposited as collected funds in the State Treasury.

(3) When ~~The following circumstances apply to instances when~~ the Department has filed a warrant:

(a) If the liability is subsequently satisfied ~~discharged~~, the Department will ~~shall~~ file a

Satisfaction of the warrant;

(b) If no warrant should have been filed, the Department ~~will~~ ~~shall~~ file a Cancellation of the warrant and note therein that the original ~~warrant~~ was filed in error;

(c) If a warrant was justified, but ~~the filed warrant was~~ materially incorrect in some respect ~~as filed~~, the Department ~~will~~ ~~shall~~ file an ~~amended~~ ~~Amended~~ warrant, which ~~will~~ ~~shall~~ reference the original filing and the erroneous portion, and ~~will~~ ~~shall~~ retain the priority of the original ~~warrant~~.

~~(4) If the Department cancels a warrant or files an amended or modified warrant pursuant to subsection (3), the taxpayer may submit a written request that the Department provide a copy of such cancellation, amendment, or modification to a credit agency specified by the taxpayer in his or her request.~~

Rulemaking Specific Authority ~~120.54(1)~~, 198.08, 199.202, 202.26(3), 212.18(2), 213.06(1) FS.

Law Implemented 198.22, 199.262, 201.16, 202.33(3), 211.125(7), 211.33(7), 212.14, 212.15, 213.73, 213.732, 213.733, 213.758, 220.819, 220.827, 220.829, 336.021, 336.025,

403.718(3)(a), 403.7185(3)(a), 443.1316, 538.11, 624.5092, 681.117 FS. History-New 11-14-91,

Amended 6-16-93, _____.

~~12-21.050 Public Use Forms. The following forms are issued by the Department in its dealings with the public. These forms are incorporated by reference in this rule. Defaced copies of these forms, for purposes of example, may be obtained by written request directed to the Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304.~~

Form Number	Title	Revision Date
(1) DR-78	Warrant	04/97
(2) DR-79	Execution	04/97
(3) DR-80	Instructions for Levy	11/92
(4) DR-81	Satisfaction and Release of Tax Lien	04/97

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 120.54(1), 213.73, 213.74, 213.75 FS. History-New 8-10-92, Amended 3-31-99, Repealed_____.

PART II ADMINISTRATIVE GARNISHMENT FOR UNPAID TAXES

12-21.201 Scope.

~~(1)~~ This part explains the procedures that which will be used by the Department Executive Director of the Department or the Executive Director's designee, to implement the ~~statutory~~ authority granted in Section 213.67, F.S. These procedures enable the Department to identify and freeze the assets of any taxpayer who owes delinquent taxes, fees, surcharges, penalties, or interest, administrative fees, or costs of collection. These procedures also will be used to levy upon such assets, and collect the delinquent amount owed. The Department will freeze the assets of a delinquent taxpayer pursuant to Section 206.18(4), F.S., using the procedures established in this rule chapter.

~~(2) Any specific questions or requests for information from any party directly affected by a garnishment procedure shall be directed to the Department office that initiated the procedure.~~
Rulemaking Specific Authority ~~72.011(2)~~, 213.06(1) FS. Law Implemented 206.18(4), 213.67, 213.731, 443.1316 FS. History-New 6-16-93, Amended 3-31-99,_____.

12-21.202 Definitions. For the purposes of this part, the following terms and phrases will have the meaning ascribed to them in this section, unless the context clearly indicates a different meaning:

(1) "Assets" means any personal property, credits, or debts, owned by or owed to a noncompliant taxpayer, excluding salaries and wages payable to a noncompliant taxpayer by a third party.

(2) "Custodian" means any person, including any business entity, who has control and/or possession of any assets owned by, or owed to, a taxpayer.

(3) "Department" means the Florida Department of Revenue, and includes its agents and employees.

(4) "Intangible personal property" means all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents, including, but not limited to:

(a) All stocks or shares of incorporated or unincorporated companies, business trusts, and mutual funds;

(b) All notes, bonds, and other obligations for the payment of money; or,

(c) Money, including United States legal tender, certificates of deposit, cashier's and certified checks, bills of exchange, drafts, the cash equivalent of annuities and life insurance policies, and similar instruments.

(5) "Noncompliant taxpayer" means any taxpayer against whom a warrant has been issued by the Department for nonpayment of an amount due pursuant to any revenue law enumerated in s. 213.05, F.S.

(6) "Personal property" means intangible personal property or tangible personal property.

~~(7) “Tangible personal property” means personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses.~~

~~(8) “Tax warrant” means any distress warrant or other warrant issued to secure payment of delinquent taxes.~~

~~(9) “Salaries or wages” means all remuneration for employment paid to a taxpayer, including commissions, bonuses, back pay awards, tips or gratuities received while performing services which constitute employment, and the cash value of all remuneration paid in any medium other than cash.~~

Rulemaking Specific Authority 72.011(2), 120.54(1), 213.06(1) FS. Law Implemented 213.67 FS. History-New 6-16-93, Repealed _____.

12-21.203 Notification to Custodians; Custodial Responsibilities.

(1) To initiate ~~a~~ this garnishment procedure, the Department will ~~send~~ prepare a Notice of Freeze (~~Form DR-44~~). ~~This Notice shall be sent by registered mail, personal service, facsimile, electronic data interchange, use of the Internet, or by other electronic means to custodians exercising control or possession of a delinquent taxpayer’s assets. The following employees of the Department are authorized to initiate this administrative garnishment procedure:~~

~~(a) The Executive Director or the Deputy Executive Director;~~

~~(b) The General Counsel or Deputy General Counsel;~~

~~(c) The Senior Program Director, General Tax Administration;~~

~~(d) The Program Director, General Tax Administration; and~~

~~(e) Any of the following positions within the Compliance Enforcement Process, General Tax Administration:~~

1. ~~The Process Manager;~~
2. ~~Regional Managers;~~
3. ~~Service Center Managers; and~~
4. ~~Process Group Managers.~~

~~(f) Any of the following positions within the Taxpayer Services Process, General Tax Administration:~~

1. ~~The Process Manager;~~
2. ~~Revenue Administrator III; and~~
3. ~~Revenue Specialist Supervisor.~~

(2) The Notice of Freeze ~~notice will~~ shall state the Department's authority to initiate the garnishment procedure; specifically identify the delinquent ~~noncompliant~~ taxpayer subject to garnishment; specify the amount of tax, fee, surcharge, penalty, or interest, administrative fees, and costs of collection owed by the taxpayer; indicate the dates during which the freeze of assets is effective; specify the amount of the delinquent taxpayer's assets that ~~which~~ must be frozen by the custodian; and ~~fully~~ describe the custodian's responsibilities pursuant to Section 213.67, F.S., and this rule.

(3) The Notice of Freeze (~~Form DR-44~~) informs the custodian of the following that:

(a) The custodian is prohibited from ~~disposing, transferring, or otherwise disposing of~~ returning to the noncompliant taxpayer or other party the specified partial amount or the entire amount of the delinquent ~~such~~ taxpayer's assets in the custodian's control or possession at the time of receipt of the Notice of Freeze, or any additional assets of which the custodian subsequently acquires control or possession, in any manner whatsoever, during the time period prescribed by ~~the this notice~~ Notice, unless written consent is given ~~authorized~~ by the

~~Department in writing;~~ The Department will notify each custodian that assets in excess of the amount stipulated in the notice, wherever held, are not subject to the freeze.

(b) The Notice of Freeze is effective as of the date of its receipt, and remains in effect until the Department consents to a transfer ~~or~~, disposition, ~~or return~~, or until sixty (60) days have elapsed from the date of its receipt. However, if the delinquent noncompliant taxpayer contests the intended levy in circuit court or under Chapter 120, F.S., within the time period specified under Section 213.67, F.S., the Notice of Freeze will remain in effect ~~effective~~ until a final resolution is achieved. ~~of the contest;~~

(c) If, during the time period prescribed by this ~~notice~~ Notice, a custodian makes any transfer or disposition of the assets required to be withheld, the custodian will be liable for any indebtedness owed to the Department ~~department~~ by the delinquent noncompliant taxpayer to the extent of the value of the such assets, if the state is unable to recover the indebtedness; solely by reason of the transfer or disposition.

(4) The Notice of Freeze informs the custodian that each ~~Each~~ custodian who receives a Notice of Freeze issued pursuant to this rule ~~Rule~~ must:

(a) Inform the Department in writing, within 5 days of the receipt of the notice, of those specific assets and their value attributable to the delinquent taxpayer that ~~which~~ the custodian controls, possesses, or is owed;

(b) Inform the Department in writing, within 5 days after coming into subsequent possession or control of assets attributable to the delinquent taxpayer; and

(c) Comply with the statutory prohibition against disposing, transferring, or releasing the amount of the delinquent noncompliant taxpayer's assets that ~~which~~ the Department specified in the Notice of Freeze or that subsequently come into possession or control of the custodian.

(5) Any financial institution receiving a Notice of Freeze issued pursuant to Section 213.67, F.S., and this rule will maintain a right of set-off for any transaction involving a debit card occurring on or before the date of receipt of such ~~notice~~ Notice.

(6) If, during the time period prescribed by this ~~notice~~ Notice, the ~~delinquent noncompliant~~ taxpayer satisfies the delinquent liability for taxes, fees, surcharges, penalties, and interest, administrative fees, or costs of collection, the Department will issue a Notice of Release (~~Form DR-44R, incorporated herein by reference, dated 10/98~~). ~~Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112.~~ Upon receipt of the Notice of Release, the custodian is no longer prohibited from ~~may transferring transfer, returning return, or disposing dispose~~ of any assets owned, controlled by, or owed to the taxpayer that are in the custodian's possession or control.

(7) The Department will record a warrant prior to initiating a garnishment procedure pursuant to this rule.

Rulemaking Specific Authority 72.011(2), 213.06(1) FS. Law Implemented 206.18(4), 213.67, 443.1316 FS. History-New 6-16-93, Amended 3-31-99, 6-28-00,_____.

12-21.204 Issuance of Notice of Intent to Levy; Procedures.

(1) Prior to levying against the assets of a ~~delinquent noncompliant~~ taxpayer for which a Notice of Freeze (~~Form DR-44~~) has been issued pursuant to Rule 12-21.203, F.A.C. this rule, the Department will ~~shall~~ send the delinquent such taxpayer, by certified or registered mail or hand-delivery, a Notice of Intent to Levy (~~Form DR-44I, incorporated herein by reference, dated 10/98~~). Thirty days or more before the Department may levy, a Notice of Intent to Levy will be

given in person or sent to the delinquent taxpayer's last known address. Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. The notice This Notice informs the delinquent nonecompliant taxpayer that the Department intends to levy on the frozen assets held by custodians, as specified in the Notice of Freeze (~~Form DR-44~~) already issued to such custodians.

(2) The Notice of Intent to Levy (~~Form DR-44I~~) explains ~~shall explain~~ to the delinquent nonecompliant taxpayer:

(a) The provisions of Section 213.67, F.S., and this rule chapter regarding the levy and sale of property for collection of delinquent taxes, fees, surcharges, penalties, interest, administrative fees, and costs of collection;

(b) The administrative and judicial appeals available to the delinquent taxpayer, including ~~and~~ the procedures for pursuing such appeals; and

(c) Any alternatives available to the delinquent taxpayer that ~~which~~ will prevent the proposed levy.

Rulemaking Specific Authority 72.011(2), 213.06(1) FS. Law Implemented 213.67, 213.731, 443.1316 FS. History-New 6-16-93, Amended 3-31-99, _____.

12-21.205 Departmental Levy on Frozen Assets; Procedures.

(1)(a) If the delinquent nonecompliant taxpayer does not, within 21 days after the date of receipt of the Notice of Intent to Levy, pay the delinquent taxes, penalties, ~~and~~ interest, administrative fees, and costs of collection owed as referenced in the Notice of Intent to Levy, or bring lawful action to contest the Notice of Intent to Levy, the Department will levy upon any

assets controlled or possessed by the custodians.

(b) If the delinquent noncompliant taxpayer, within 21 days after the date of receipt of the Notice of Intent to Levy, files a lawful action contesting this intended levy pursuant to Chapter 120, F.S., or in circuit court, the Department will issue a Notice of Contested Intent to Levy to the custodian. (~~Form DR 44C, incorporated herein by reference, dated 10/98~~). ~~Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Taxpayer Services, Mail Stop 3 2000, 5050 West Tennessee Street, Tallahassee, Florida 32399 0112.~~ The Department will not proceed to levy on such frozen assets until there is a final resolution in its favor determination is issued.

(c) If the delinquent taxpayer contests the intended levy, the Notice of Freeze will remain in effect until there is a final resolution.

(2) The following procedures ~~will~~ govern the Department's issuance of a Notice of Levy: (~~Form DR 44L, incorporated herein by reference, dated 10/98~~). ~~Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Taxpayer Services, Mail Stop 3 2000, 5050 West Tennessee Street, Tallahassee, Florida 32399 0112.~~

(a) The Department will not issue a Notice of Levy until at least thirty (30) days after the Department has issued a Notice of Intent to Levy to the delinquent taxpayer ~~Freeze to custodians of a noncompliant taxpayer's assets.~~

(b) A Notice of Levy will be delivered by registered mail to those custodians who are currently subject to a Notice of Freeze. The Notice of Levy will designate the specific assets to be paid or transferred to the Department, and the manner in which such transfer should occur. Payments to the Department must be made by certified or cashier's check, made payable in U.S. funds to the Florida Department of Revenue.

~~(c) The following employees of the Department are authorized to sign the Notice of Levy (Form DR-44L) sent to a custodian:~~

- ~~1. The Executive Director;~~
- ~~2. The Deputy Executive Director;~~
- ~~3. The General Counsel or Deputy General Counsel;~~
- ~~4. The Senior Program Director, General Tax Administration;~~
- ~~5. The Program Director, General Tax Administration;~~
- ~~6. Any of the following positions within the Compliance Enforcement Process, General~~

~~Tax Administration:~~

- ~~a. The Process Manager;~~
- ~~b. Regional Managers;~~
- ~~e. Service Center Managers;~~
- ~~d. Process Group Managers; and~~
- ~~7. Any of the following positions within the Taxpayer Services Process, General Tax~~

~~Administration:~~

- ~~a. The Process Manager;~~
- ~~b. Revenue Administrator III; and~~
- ~~c. Revenue Specialist Supervisor.~~

~~(c)(d) A Notice of Levy will apply:~~

~~1. To any credits, other personal property, or debts of the delinquent taxpayer held by a custodian as of the date the notice Notice is received by such custodian that ~~which~~ are not, at the time of the initial Notice of Freeze (~~Form DR-44~~), subject to an attachment, garnishment, or execution issued through a judicial process; and~~

2. To any credits, other personal property, or debts of the delinquent taxpayer of which the custodian subsequently acquires control or possession during the time period prescribed by the Notice of Freeze (~~Form DR-44~~).

(3)(a) The assets ~~tangible personal property~~ of any delinquent noncompliant taxpayer that ~~which have~~ ~~has~~ been garnished by the Department are ~~is~~ subject to levy and sale in the same manner as provided in Section 213.69, F.S., and ~~Part I~~ of this rule chapter.

(b) The Department will ~~shall~~ return to the delinquent noncompliant taxpayer any surplus sale proceeds in its possession remaining after all ~~costs~~, taxes, fees, surcharges, penalties, and interest, administrative fees, and costs of collection have been deducted from such sale.

(4) The Department must bring an action in circuit court to obtain an order compelling compliance with any notice issued under the authority of Section 213.67, F.S.

Rulemaking Specific Authority 72.011(2); 213.06(1) FS. Law Implemented 213.67, 213.731, 443.1316 FS. History-New 6-16-93, Amended 3-31-99,_____.

12-21.208 Withholding of Vendor Payments.

(1) This rule explains the procedures used by the Department to implement the authority granted in Section 213.67(9), F.S., that requires the Department to provide the Chief Financial Officer a listing of taxpayers for which warrants are outstanding and for which the Department is authorized to levy upon certain payments.

(2)(a) The Department will request that payments to any person, as defined in Section 212.02, F.S., who provides commodities or services to the State, leases real property to the State, or constructs a public building or public work for the State be withheld by the Chief Financial Office when:

1. The amount of the outstanding warrant is \$150 or larger; or,

2. The payment to be withheld represents at least 5 percent of the amount of the outstanding warrant.

(3) The Department will advise the Chief Financial Officer to release payment to a vendor with an outstanding warrant when the vendor is in compliance with a stipulated payment agreement with the Department.

(4) The Department will advise the Chief Financial Officer of the amount of any funds due in excess of the amount of the outstanding warrant that are not subject to withholding.

Rulemaking Authority 213.06(1) FS. Law Implemented 213.67(9) FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Thomas Butscher, Assistant General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, telephone (850)617-8347.

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 August 31, 2012 (Vol. 38, No. 35, pp. 3560 - 3561), to advise the public of the proposed changes to Rule Chapter 12-21, F.A.C. (Warrants, Jeopardy, and Post-Warrant Collections), and to provide that, if requested in writing, a rule development workshop would be held on September 20, 2012. 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 RULE 12A-1.090

SUMMARY OF PROPOSED RULE

The proposed repeal of Rule 12A-1.090, F.A.C. (Tax Liens, Garnishment and Jeopardy Assessments), removes from Rule Chapter 12A-1, F.A.C., Sales and Use Tax, all provisions regarding tax liens, garnishment, and jeopardy assessments.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed repeal of Rule 12A-1.090, F.A.C. (Tax Liens, Garnishment and Jeopardy Assessments), is necessary to remove provisions regarding tax liens, garnishment, and jeopardy assessments from the provisions of Chapter 12A-1, F.A.C., that will be updated and provided in Rule Chapter 12-21, F.A.C. (Warrants, Jeopardy, and Post-Warrant Collections), as amended.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

No Notice of Proposed Rule Development is required for the proposed repeal of a rule.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.090 Tax Liens, Garnishment and Jeopardy Assessments

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-1.090, F.A.C. (Tax Liens, Garnishment and Jeopardy Assessments), is to remove provisions regarding tax liens, garnishment, and jeopardy assessments from the provisions of Rule Chapter 12A-1, F.A.C., that will be updated and provided in Rule Chapter 12-21, F.A.C. (Warrants, Jeopardy, and Post-Warrant Collections), as amended.

SUMMARY: The proposed repeal of Rule 12A-1.090, F.A.C. (Tax Liens, Garnishment and Jeopardy Assessments), removes from Rule Chapter 12A-1, F.A.C., Sales and Use Tax, all provisions regarding tax liens, garnishment, and jeopardy assessments.

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 repealing rules of this nature, the adverse impact or

regulatory cost, if any, does not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06 FS.

LAW IMPLEMENTED: 95.091, 212.04(4), (6), (7), 212.07(3), 212.10(3), 212.14(1), (6), 212.15(1), (2), (3), (4), 212.151, 213.67(2), 213.756 FS.

A RULE 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 RULE IS: Thomas Butscher, Assistant General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, telephone (850) 617-8347.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
REPEALING RULE 12A-1.090

12A-1.090 Tax Liens, Garnishment and Jeopardy Assessments.

~~(1) If not paid as specified therein, the tax imposed by Chapter 212, F.S., shall become delinquent for each month upon the twenty first day of the succeeding month, except as provided in Rule 12A-1.056(1), F.A.C.~~

~~(a) In addition to criminal sanctions, when any tax becomes delinquent or if the department believes that the collection of any tax or any amount of tax required to be collected and paid to the State or if any determination will be jeopardized by delay, it shall be the duty of the Department of Revenue to issue a warrant for the full amount of tax due or estimated to be due, together with the interest, penalties and cost of collection. Such warrant shall be directed to all and singular the sheriffs of the State of Florida and shall be recorded with the Clerk of the Circuit Court in the county where the delinquent taxpayer's real or personal property in such county in the same manner as a judgment duly docketed and recorded. Such liens are enforceable for only five (5) years, which period runs from the date of the assessment or delinquency whichever is later, unless the time period is tolled for some reason. The department is not obligated to satisfy or cancel any outstanding lien of record where no payment has been made or the time period has expired and the department will not refuse to accept payment on a lien after the five (5) year time period has expired if the taxpayer tenders payment for release of any such~~

~~unenforceable lien. The sheriff upon notice by the department, shall proceed upon all enforceable liens in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgment of the circuit court, and he shall be entitled to the same fees for his services in executing the warrant. Upon payment of such execution, warrant or judgment, the Department of Revenue is hereby specifically authorized and directed to satisfy the lien of record within thirty (30) days.~~

~~(b) In making a determination that the collection of any amount of tax required to be collected and paid will be jeopardized by delay, the department may consider any of the following:~~

- ~~1. The prior history, if any, of the taxpayer's compliance or noncompliance with the provision of the law;~~
- ~~2. The type of business, including the transient or non-transient nature of the business;~~
- ~~3. The liquidity of assets;~~
- ~~4. The mobility of assets;~~
- ~~5. The pending sale or transfer of title of assets; or~~
- ~~6. The financial status of the person or dealer owing the tax, including existence of money judgments.~~

~~(2) In addition to the issuance of a distress warrant and tax lien provided by Chapter 212, F.S., Section 212.07(3), F.S., provides that any dealer who shall fail, neglect or refuse to collect the tax therein provided, either himself or through his agents, or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be guilty of a misdemeanor, and upon conviction shall be punished as provided by law.~~

~~(3) When any dealer is delinquent in the payment of tax, Section 212.10(3), F.S.,~~

~~authorizes the Department of Revenue to give notice by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such dealer, or to all persons owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall, within five days after receipt of such notice, advise the Department of Revenue in writing of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice. After receiving the notice, the persons notified shall neither transfer nor make any other disposition of the credits, other personal property or debts in their possession or under their control at the time they receive the notice or at any time during the time prescribed by the notice until the Department of Revenue consents to the transfer or disposition or until sixty days elapse after the receipt of the notice. Any person so notified who shall make any transfer or disposition of the credits, other property or debts required to be withheld hereunder, shall be liable to the State for any indebtedness to the extent of the value of the property or amount of the debts transferred, if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person named in the notice. All such credits or other personal property or debts are subject to garnishment by the Department of Revenue to satisfy the delinquent tax.~~

~~(4) The taxes imposed by Chapter 212, F.S., shall become state funds at the moment of collection. Any person who, with intent to unlawfully deprive or defraud the State of its monies or the use or benefit thereof, fails to remit taxes collected pursuant to this chapter is guilty of theft of State funds, punishable as provided under Section 212.15(2), F.S.~~

Rulemaking Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 95.091, 212.04(4), (6), (7), 212.07(3), 212.10(3), 212.14(1), (6), 212.15(1), (2), (3), (4), 212.151, 213.67(2),

213.756 FS. History-Revised 10-7-68, 6-16-72, Amended 8-23-77, 6-3-80, 4-29-85, Formerly
12A-1.90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Butscher, Assistant General Counsel, Department of Revenue, P.O. Box 6668, Tallahassee, Florida 32314-6668, telephone (850) 617-8347.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: No Notice of Proposed Rule Development is required for the proposed repeal of a rule.

ATTACHMENT 4



Executive
Director
Marshall Stranburg

September 24, 2013

MEMORANDUM

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

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

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

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

THRU: Marshall Stranburg, Executive Director

FROM: Andrea J. Moreland, Deputy Executive Director

SUBJECT: Requesting Approval to Hold Public Hearing on Proposed Rules
Law Change Updates – Annual Tax Returns – Obsolete Provisions

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 Notices of Proposed Rule in the Florida Administrative Register for these proposed rules:

- Sales and Use Tax
- Rental Car Surcharge
- Communications Services Tax
- Fuel Tax
- Insurance Premium Tax, Fees, and Surcharges
- Corporate Income Tax
- Annual Tax on Government Leasehold Estates
- Estate Tax
- Clerk of the Court Remittances
- Recordkeeping Requirements

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

What do the proposed rules do?

Sales and Use Tax

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

Rental Car Surcharge

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

Communications Services Tax

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

- Update tax returns to reflect local communications services tax rates (*Rule 12A-19.100, F.A.C.*)

Fuel Tax

- Update the definition of gasohol to reflect the repeal of the Florida Renewable Fuel Standard Act (*Chapter 2013-103, L.O.F.*) (*Rule 12B-5.020, F.A.C.*)
- Remove provisions regarding alternative fuels repealed effective January 1, 2014 (*Chapter 2013-198, L.O.F.*) (*Rules 12B-5.060 and 12B-5.200, F.A.C.*)
- Update the licensing requirements for biodiesel fuel manufactured for sale by municipalities, counties, and school districts (*Chapter 2013-142, L.O.F.*) (*Rules 12B-5.060 and 12B-5.090, F.A.C.*)
- Include the exemption for biodiesel fuel manufactured by municipalities, counties, and school districts for their own use (*Chapter 2013-142, L.O.F.*) (*Rules 12B-5.060 and 12B-5.090, F.A.C.*)
- Correct the application that is used to obtain a refund of tax paid on undyed diesel fuel used in a commercial fishing vessel or in a vessel engaged in commercial transportation (*Rule 12B-5.130, F.A.C.*)
- Include the exemption for dyed diesel fuel used for commercial fishing and aquacultural purposes (*Chapter 2013-82, L.O.F.*) (*Rule 12B-5.130, F.A.C.*)
- Provide for the annual licensing of natural gas fuel retailers beginning January 1, 2014 (*Chapter 2013-198, L.O.F., Rules 12B-5.150 and 12B-5.500, F.A.C.*)
- Update forms and tax returns used in the administration of taxes imposed on fuels and pollutants (*Rule 12B-5.150, F.A.C.*)
- Remove obsolete references to effective dates (*Rules 12B-5.080, 12B-5.140, and 12B-5.300, F.A.C.*)

Insurance Premium Tax, Fees, and Surcharges

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

Corporate Income Tax

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

Annual Tax on Government Leasehold Estates

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

Estate Tax

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

Clerk of the Court Remittances

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

Recordkeeping Requirements

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

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

No request was received to hold a rule development workshop for Rule 12-24.023, F.A.C., on September 5, 2013. No 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-1.059, 12A-1.0641, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.059, F.A.C. (Fuels): (1) include the exemption for natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment effective July 1, 2013, as provided in Section 4, Chapter 2013-42, L.O.F., and provide a suggested exemption certificate for purchasing such gas tax-exempt; (2) replace the term “alternative fuel” with “natural gas fuel,” as provided in Sections 1 and 7, Chapter 2013-198, L.O.F.; (3) provide for the exemption for natural gas fuel placed into the fuel supply system of a motor vehicle effective January 1, 2014, as provided in Section 15, Chapter 2013-198, L.O.F.; (4) provide for the exemption for dyed diesel fuel used in a vessel or equipment used exclusively for commercial fishing and aquacultural purposes, as provided in Chapter 2013-82, L.O.F.; and (5) clarify that exemptions for fuel used for certain agricultural purposes are provided in Rule 12A-1.087, F.A.C.

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.059 Fuels

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

12A-1.097 Public Use Forms

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

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

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

SUMMARY: The proposed amendments to Rule 12A-1.059, F.A.C. (Fuels): (1) include the

exemption for natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment effective July 1, 2013, as provided in Section 4, Chapter 2013-42, L.O.F., and provide a suggested exemption certificate for purchasing such gas tax-exempt; (2) replace the term “alternative fuel” with “natural gas fuel,” as provided in Sections 1 and 7, Chapter 2013-198, L.O.F.; (3) provide for the exemption for natural gas fuel placed into the fuel supply system of a motor vehicle effective January 1, 2014, as provided in Section 15, Chapter 2013-198, L.O.F.; (4) provide for the exemption for dyed diesel fuel used in a vessel or equipment used exclusively for commercial fishing and aquacultural purposes, as provided in Chapter 2013-82, L.O.F.; and (5) clarify that exemptions for fuel used for certain agricultural purposes are provided in Rule 12A-1.087, F.A.C.

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that these rules 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 rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has

determined that the proposed rules are not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with information on new tax exemptions, and to update sales and use tax returns, 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, 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)(a)2., 212.17(6), 212.18(2), (3), 212.183, 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, 206.86(4), 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 212.183, 212.21(3), 213.235, 213.255(1), (2), (3), 213.29, 213.37, 215.26(2), 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.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL

BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED,
THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ronald Gay, Ryan Marlar or Janet L. Young, Tax Law Specialists, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

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

12A-1.059 Fuels.

(1) through (2) No change.

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

EXEMPTION CERTIFICATE

NATURAL GAS USED TO GENERATE ELECTRICITY

IN A NON-COMBUSTION FUEL CELL USED IN STATIONARY EQUIPMENT

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

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

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

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

conviction of a third degree felony.

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

SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

TITLE OR DESIGNATION

DATE

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

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

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

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

~~(6)~~(a)(5) The sale of natural gas ~~alternative~~ fuel, as defined in Section 206.9951 ~~206.86~~(4), F.S., is subject to sales tax. Natural gas ~~Alternative~~ fuels include liquefied petroleum gas, compressed natural gas, natural gasoline, butane gas, and propane gas.

(b) Natural gas and natural gas fuel are exempt from sales tax when placed into the fuel supply system of a motor vehicle.

(c) See Rule 12A-1.087, F.A.C., for liquefied petroleum gas, diesel, kerosene, or other alternative fuel used for certain agricultural purposes.

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

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

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

(1) through (5) No change.

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

(a)1. The sale of dyed diesel fuel placed into the storage tank of a vessel or equipment used exclusively for commercial fishing and aquacultural purposes is exempt. “Commercial fishing and aquacultural purposes” means fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from Florida salt or fresh waters for resale to the public.

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

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

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

EXEMPTION CERTIFICATE

DYED DIESEL FUEL USED EXCLUSIVELY FOR

COMMERCIAL FISHING OR AQUACULTURAL PURPOSES

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

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

be used exclusively in the equipment or vessel for the taking of fish, crayfish, oysters, shrimp, or sponges from Florida salt or fresh waters for resale to the public.

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

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

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

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

SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

TITLE OR DESIGNATION

DATE

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

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

The following is a suggested format of an affidavit a certificate:

AFFIDAVIT CERTIFICATE

DYED DIESEL FUEL FOR USE IN A VESSEL OPERATED

IN INTERSTATE OR FOREIGN COMMERCE

~~OR FOR COMMERCIAL FISHING PURPOSES~~

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

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

and is not subject to Florida sales tax.

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

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

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

SIGNATURE OF OWNER, OPERATOR, AGENT, OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

(7) through (9) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.0501(4), 212.06(1), 212.08(4)(a)2., 4., (8), 212.085, 212.13(1), 212.21(3) FS.

History–New 6-12-03, Amended 5-9-13,_____.

12A-1.097 Public Use Forms.

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

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (5) No change.

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

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

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

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

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

(7)(a) No change.

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

(c) No change.

(8) through (15) No change.

(16) DR 72-2 Declaration of Taxable Status – Trailer Camps,

Mobile Home Parks, and Recreational Vehicle

Parks (R. ~~06/13 02/00~~)

~~06/99~~

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

(17) through (23) No change.

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

NAME OF PERSONS ORIGINATING PROPOSED RULES: Ronald Gay, Ryan Marlar or Janet L. Young, Tax Law Specialists, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

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

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

RENTAL CAR SURCHARGE

RULE NO: RULE TITLE:

12A-16.008 Public Use Forms

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to tax returns and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section

120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

12A-16.008 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) No change.

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

(4) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

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

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

SUMMARY OF PROPOSED RULES

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMMUNICATIONS SERVICES TAX

RULE NO: RULE TITLE:

12A-19.071 Department of Revenue Electronic Database

12A-19.100 Public Use Forms

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

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that these rules 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 rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rules are not expected to require legislative ratification based on the

Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.22(6)(a), 202.26(3)(a), (b), (c), (d), (e), (g), (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(2), (6), 202.23, 202.27, 202.28(1), (2), 202.29, 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

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

12A-19.071 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

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

(c) through (e) No change.

(3) No change.

Rulemaking Authority 202.26(3)(b), (g) FS. Law Implemented 202.22(2), 202.23 FS. History--

New 11-14-05, Amended 12-20-07, 6-28-10,_____.

12A-19.100 Public Use Forms.

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

(b) No change.

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

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

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

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

Form Number	Title	Effective Date
(3) DR-700012	Application for Certification of Communications Services Database (R. <u>10/13 05/11</u>)	___ <u>01/12</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00821)	
(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u>	
	(R. <u>01/14</u>)	___
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	
(a) through (kk) renumbered (b) through (ll) No change.		
(5) through (7) No change.		
(8) DR-700022	Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (R. <u>10/13 10/06</u>)	___ <u>12/07</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	
(9) DR-700025	Objection to Address/Jurisdiction Database for Local Communications Services Tax and Local Insurance Premium Tax Service Address Assignment	

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

(10) 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, 1-17-13, 5-9-13,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

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

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

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

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

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

CREATING RULE 12B-5.500

SUMMARY OF PROPOSED RULES

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

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

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

The proposed amendments to Rule 12B-5.090, F.A.C. (Local Government Users), update the reporting, licensing, and bonding requirements of municipalities, counties, and school districts, as provided in Chapter 2013-142, L.O.F., and remove provisions for nonpublic schools, which are not permitted to be licensed as a local government user.

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

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

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

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

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

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3825 - 3827), to advise the public of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and Natural Gas Fuel), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013.

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

PARTIES ATTENDING

For the Department
of Revenue

MARK ZYCH, Director, Technical Assistance and Dispute
Resolution
RON GAY, Tax Law Specialist, Technical Assistance and Dispute
Resolution
TAMMY MILLER, Workshop Moderator, Office of the General
Counsel

Participants

EDDIE WILLIAMS, Holland & Knight
DALE CALHOUN, Florida Natural Gas Association, Florida
Propane Gas Association

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

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

RULE NO: RULE TITLE:

12B-5.020 Definitions; Specific Exemptions

12B-5.060 Wholesalers

12B-5.080 Exporters

12B-5.090 Local Government Users

12B-5.130 Refunds

12B-5.140 Dyeing and Marking; Mixing

12B-5.150 Public Use Forms

12B-5.200 Wholesalers of Alternative Fuel

12B-5.300 Aviation Fuel Licensees

12B-5.500 Natural Gas Fuel Retailers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that these rules 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 rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rules are not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the

Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to tax information based on law changes and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY 206.14(1), 206.485(1), 206.59(1), 20.62(10), 206.87(1)(e)2., 206.8741(1), 206.97, 213.06(1), 213.755(8) FS.

LAW IMPLEMENTED 119.071(5), 206.01(4), (9), (21), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.03, 206.04, 206.05, 206.051, 206.052, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.416, 206.43, 206.44, 206.48, 206.485, 206.62, 206.64, 206.86, 206.87, 206.874, 206.8741, 206.8745, 206.90, 206.91, 206.92, 206.97, 206.9825, 206.9835, 206.9865, 206.9875, 206.9915, 206.9931, 206.9942, 206.9943, 212.0501, 212.08(4), 213.255(2), (3), 213.755, 215.26 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such

proceeding by contacting 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: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

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

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

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

CREATING RULE 12B-5.500

12B-5.020 Definitions; Specific Exemptions.

(1) DEFINITIONS.

(a) through (e) No change.

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

(g) No change.

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

(i) through (k) No change.

(2) No change.

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

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

12B-5.060 Wholesalers.

(1) No change.

(2) LICENSING AND BONDING.

(a) No change.

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

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

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

(3) No change.

(4) TAXABLE SALES.

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

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

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

(5) through (6) No change.

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

12B-5.080 Exporters.

(1) through (4) No change.

(5) REFUNDS AND CREDITS.

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

(b) through (c) No change.

(6) No change.

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

12B-5.090 Local Government Users.

(1) GENERAL INFORMATION.

(a) 1. through 2. No change.

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

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

(b) No change.

(2) LICENSING AND BONDING.

(a) Licensing.

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

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

3. No change.

(b) No change.

(3) through (4) No change.

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

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

12B-5.130 Refunds.

(1) through (3) No change.

(4) DIESEL FUEL SOLD FOR USE IN VESSELS.

(a) Dyed Diesel Fuel

1. No change.

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

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

(b) No change.

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

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

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

3. No change.

(5) No change.

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

12B-5.140 Dyeing and Marking; Mixing.

(1) No change.

(2)(a) No change.

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

(c) No change.

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

12B-5.150 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) No change.

(3) DR-156	Florida Fuel Tax Application (R. <u>01/14 05/10</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>)	___ 07/10
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(4) DR-156R	Renewal Application for Florida Fuel/Pollutant License (R. <u>01/14 05/10</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>)	___ 07/10
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(5) No change.

(6) DR-157	Fuel Tax Surety Bond (R. <u>01/14 05/05</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>)	___ 05/06
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(7) DR-157A	Assignment of Time Deposit (R. <u>01/14 09/11</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>) 00854)	___ 01/12
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(8) DR-157B	Fuel Tax Cash Bond (R. <u>01/14 08/03</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>)	___ 05/06
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(9) DR-157W	Bond Instructions (R. <u>01/14 01/04</u>) (<u>http://www.flrules.org/Gateway/reference.asp?No=Ref-____</u>)	___ 05/06
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(10) No change.

(11) DR-166 Florida Pollutant Tax Application (R. 01/14 ~~05/10~~) ___ ~~07/10~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)

(12) No change.

(13) DR-182 Florida Air Carrier Fuel Tax Return
(R. 01/14 ~~01/13~~) ___ ~~01/13~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ ~~02123~~)

(14) through (17) No change.

~~(18) DR-248 Alternative Fuel Use Permit Application, Renewal,
and Decal Order Form (R. 11/12) 01/13~~

~~(18)(19) No change.~~

~~(19)(20) DR-309631 Terminal Supplier Fuel Tax Return
(R. 01/14 ~~01/13~~) ___ ~~01/13~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ ~~02130~~)~~

~~(20)(21) DR-309631N Instructions for Filing Terminal Supplier Fuel
Tax Return (R. 01/14 ~~01/13~~) ___ ~~01/13~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ ~~02131~~)~~

~~(21)(22) DR-309632 Wholesaler/Importer Fuel Tax Return
(R. 01/14 ~~01/13~~) ___ ~~01/13~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ ~~02132~~)~~

~~(22)(23) DR-309632N Instructions for Filing Wholesaler/Importer Fuel
Tax Return (R. 01/14 ~~01/13~~) ___ ~~01/13~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ ~~02133~~)~~

(23)~~(24)~~ No change.

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

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

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02135)

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

Return (R. 07/13 ~~01/13~~) _____ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02136)

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

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

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02137)

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

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

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02138)

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

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

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02139)

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

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

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02140)

(31) through (32) Renumbered (30) through (31) No change.

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

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

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

~~(33)~~(34) DR-309638 Exporter Fuel Tax Return (R. ~~01/14~~ 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02144)

~~(34)~~(35) DR-309638N Instructions for Filing Exporter Fuel Tax Return
(R. ~~01/14~~ 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02145)

(36) through (38) Renumbered (35) through(37) No change.

~~(38)~~(39) Motor Fuels ~~EDI~~ Technical Implementation
Guide (ANSI ASCX12 ~~V.4030~~)
(January ~~2014~~ 2009) ___ 06/09
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8), ~~526.206~~ FS.
Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028,
206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.416, 206.43, 206.44, 206.485,
206.86, 206.874, 206.8745, ~~206.877~~, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931,
206.9942, 206.9943, 212.0501, 213.255, 213.755, ~~526.203~~ FS. History-New 11-21-96, Amended
10-27-98, 5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-
11, 7-20-11, 1-25-12, 1-17-13, 5-9-13,_____.

~~PART II TAX ON ALTERNATIVE FUEL~~

~~12B-5.200 Retailers of Alternative Fuel.~~

~~(1) GENERAL INFORMATION.~~

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

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

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

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

~~ultimate consumer.~~

~~(2) LICENSING AND BONDING.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(5) RETURNS.~~

~~(a) Licensed Retailers of Alternative Fuel are required to file a Blender/Retailer of Alternative Fuel Tax Return (Form DR-309635, incorporated by reference in Rule 12B-5.150, F.A.C.), by the 20th day of the month following a month in which transactions of placing fuel into vehicles powered by alternative fuel occur. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal~~

~~revenue district.~~

~~(b) Electronic filing of payments, returns, and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:~~

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

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

Repealed.

12B-5.300 Aviation Fuel Licensees.

(1) through (6) No change.

(7) Refunds and Credits.

(a) No change.

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

(8) through (9) No change.

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

PART V TAX ON NATURAL GAS FUEL

12B-5.500 Natural Gas Fuel Retailers.

(1) GENERAL INFORMATION.

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

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

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

(2) LICENSING.

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

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

application.

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

History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3825 - 3827), to advise the public of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and Natural Gas Fuel), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. A rule development workshop was held on that date; however, no comments or suggestions to the proposed rule amendments were received.

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

SUMMARY OF PROPOSED RULES

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INSURANCE PREMIUM TAXES, FEES AND SURCHARGES

RULE NO: RULE TITLE:

12B-8.0016 Department of Revenue Electronic Database

12B-8.003 Tax Statement; Overpayments

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

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that these rules 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 rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rules are not expected to require legislative ratification based on the

Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to tax returns and instructions and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY 175.1015(5), 185.085(5), 213.06(1) FS.

LAW IMPLEMENTED 92.525, 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99 (2010), 440.51, 443.1216, 624.11, 624.402, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

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

12B-8.0016 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

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

(c) through (e) No change.

(3) through (4) No change.

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

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

12B-8.003 Tax Statement; Overpayments.

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

(2) through (3) No change.

Form Number	Title	Effective Date
(4)(a) DR-907	Florida Insurance Premium Installment Payment (R. <u>01/14</u> 01/13)	<u>01/13</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02114)	
(b) DR-907N	Instructions for Filing Insurance Premium Installment Payment (Form DR-907) (R. <u>01/14</u> 01/13)	<u>01/13</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02114)	
(5)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <u>2013</u> 2012 (R. <u>01/14</u> 01/13)	<u>01/13</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02115)	
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. <u>01/14</u> 01/13)	<u>01/13</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02116)	

NAME OF PERSON ORIGINATING PROPOSED RULES: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

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

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3827 - 3828), to advise the public of the

proposed amendments to Rule 12C-1.051, F.A.C. (Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.051 Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the corporate income tax.

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to tax returns and instructions and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in

Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.192(7), 220.193(4), 220.196(4), 220.51, 1002.395(13) FS.

LAW IMPLEMENTED: 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.1899, 220.19, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 RULE IS: Jennifer

Ensley, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

12C-1.051 Forms.

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

(b) No change.

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

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

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Jennifer Ensley, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

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

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INTANGIBLE PERSONAL PROPERTY TAX

RULE NO: RULE TITLE:

12C-2.0115 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), is to adopt, by reference, changes to the tax return used to report the annual tax on governmental leasehold estates.

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updates to the instructions to tax returns and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth

in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 199.202, 213.06(1) FS.

LAW IMPLEMENTED: 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.052 (2005), 199.103(7) (2005), 199.135 (2005), 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)617-8346.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

12C-2.0115 Public Use Forms.

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

(b) No change.

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

(3) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist,
Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850)617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

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

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE

ESTATE TAX

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

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

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

SUMMARY OF PROPOSED RULES

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

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

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

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

ESTATE TAX

RULE NO: RULE TITLE:

12C-3.0015 Affidavit – No Florida Estate Tax Due

12C-3.0025 Jointly Owned Property

12C-3.0035 Calculation of Tax upon Resident Decedent Estates

12C-3.0045 Calculation of Tax upon Nonresident Decedent Estates

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

12C-3.008 Public Use Forms

12C-3.010 Final Certificate and Nontaxable Certificate Mailing Procedure

12C-3.011 Tax on Generation-Skipping Transfers

12C-3.012 Releases

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

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

The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), update the

Florida estate tax return and the Affidavit of No Florida Estate Tax Due to reflect the provisions of section 1, Chapter 2013-172, L.O.F., and to remove obsolete forms.

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

The proposed repeal of the following rule sections of Rule Chapter 12C-3, F.A.C. (Estate Tax), remove provisions rendered obsolete by Section 1, Chapter 2013-172, L.O.F.: Rule 12C-3.0025, F.A.C. (Jointly Owned Property), Rule 12C-3.0035, F.A.C. (Calculation of Tax upon Resident Decedent Estates), Rule 12C-3.0045, F.A.C. (Calculation of Tax upon Nonresident Decedent Estates), Rule 12C-3.0055, F.A.C. (Calculation of Tax upon Nonresident Alien Decedent Estates), Rule 12C-3.011, F.A.C. (Tax on Generation-Skipping Transfers), and Rule 12C-3.012, F.A.C. (Releases).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that these rules 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 rules. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rules are not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with updated tax information, removing obsolete provisions, and rules of this nature, the adverse impact or

regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 198.08, 198.32(2), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(1)(b), 119.071(5), 198.02, 198.03, 198.031, 198.04, 198.05, 198.08, 198.13, 198.14, 198.15, 198.155, 198.19, 198.22, 198.23, 198.26, 198.32, 198.33(1), 198.38, 198.39, 213.37, 837.06 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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: Debra Gifford, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE

ESTATE TAX

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

by the estate.

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

~~(4) Extensions.~~

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

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

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

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

12C-3.0025 Jointly Owned Property.

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

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

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

History—New 12-13-94, Repealed_____.

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

~~(1) Calculation of Tax:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12C-3.008 Public Use Forms.

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

(b) No change.

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

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

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

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

12C-3.011 Tax on Generation-Skipping Transfers.

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

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

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

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

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

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

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

~~(1) Estate of Resident Decedents—~~

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

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

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

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

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

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

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

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

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

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

NAME OF PERSON ORIGINATING PROPOSED RULES: Debra Gifford, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

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

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

REMITTANCE REQUIREMENTS FOR CLERKS OF THE COURT, MUNICIPALITIES,
AND COUNTIES

RULE NO: RULE TITLE:

12-28.008 Due Date; General Provisions

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

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

SUMMARY: The proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General

Provisions), provide the due dates for remittances of all court-related fees, service charges, costs, and fines collected by the clerks of the court to the Department for disbursement, as provided in section 8, Chapter 2013-44, L.O.F.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the clerks of the court updates to requirements to remit funds for distribution and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 213.13 FS.

LAW IMPLEMENTED: 28.241(1)(a)1., 28.245, 28.37, 34.041(1)(b), 213.13, 219.07, 316.0083, 322.20(11), 721.8561 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED,

THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting 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 RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

12-28.008 Due Date; General Provisions.

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

(a) through (b) No change.

(c) Monthly Remittances.

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

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

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

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

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

(2) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist,
Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

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

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

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

AMENDING RULE 12-24.023

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

SEPTEMBER 5, 2013

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

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

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

RULE NO: RULE TITLE:

12-24.023 Recordkeeping Requirements - General

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), is to remove obsolete provisions regarding the tax return previously used for reporting the communications services tax on substitute communications systems, which was repealed by Chapter 2005-187, L.O.F.

SUMMARY: The proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), remove an obsolete provision regarding the substitute communications systems tax return.

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 removing obsolete provisions and rules of

this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 202.26(3)(a), 213.06(1), 443.1317 FS.

LAW IMPLEMENTED: 202.30, 213.34, 213.35, 443.1317, 443.163 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850)617-4387. 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 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7610.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

AMENDING RULE 12-24.023

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

12-24.023 Recordkeeping Requirements - General.

(1) through (4) No change.

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

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist,
Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

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

ATTACHMENT 5



Executive
Director
Marshall Stranburg

September 24, 2013

MEMORANDUM

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

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

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

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

THRU: Marshall Stranburg, Executive Director

FROM: Andrea J. Moreland, Deputy Executive Director

SUBJECT: Requesting Approval to Hold a Public Hearing on Propose Rules –
Property Tax Oversight

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

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

Child Support Enforcement – Ann Coffin, Director • General Tax Administration – Maria Johnson, Director
Property Tax Oversight – James McAdams, Director • Information Services – Damu Kuttikrishnan, Director

www.myflorida.com/dor
Tallahassee, Florida 32399-0100

What is the Program Requesting?

Section 120.54(3)(c), F.S., requires the Department to obtain Cabinet approval to hold public hearings for the development of the proposed rules. The Department requests approval to publish Notice of Proposed Rules in the Florida Administrative Register for the following rule chapters:

- **Chapter 12D-1**, General Rules
- **Chapter 12D-6**, Mobile Homes, Prefabricated or Modular Housing Units, Pollution Control Devices, and Fee Time-Share Developments
- **Chapter 12D-7**, Exemptions
- **Chapter 12D-8**, Assessment Roll Preparation and Approval
- **Chapter 12D-9**, Requirements for Value Adjustment Boards in Administrative Reviews; Uniform Rules of Procedure for Hearings Before Value Adjustment Boards
- **Chapter 12D-16**, Administration of Forms

Rule 12D-1.002, Definitions

Why is the proposed rule necessary? The proposed amendments reflect a statutory change enacted in Section 1 of Chapter 2012-193, L.O.F.

What does this proposed rule do? The proposed amendments revise the definition of the term “assessed value of property” to clarify that the term means all property, not just “homestead” property; and, that the term means an annual determination of the property’s just or fair market value, as well as the value of property that is in a classified use or a fractional value.

Were comments received from external parties? No.

Rule 12D-1.0025, Computation of Time; Due Dates Falling on Weekends and Holidays

Why is the proposed rule necessary? Taxpayers, property appraisers, and tax collectors have experienced problems when a deadline occurs on a weekend or holiday.

What does this proposed rule do? The proposed rule clarifies how to apply deadlines for property tax actions when the deadline falls on a non-working day. The rule provides that the deadline is extended to the next regular working day.

Were comments received from external parties? Yes. The rule draft was revised based on the comments.

Rule 12D-1.009, Mapping Requirements

Why is the proposed rule necessary? The proposed amendments update a provision addressing property ownership maps to provide uniformity in mapping requirements and to conform the rule to industry appraisal standards.

What does this proposed rule do? The proposed amendments remove an unnecessary limitation regarding the inclusion of recorded or unrecorded subdivisions on property ownerships maps.

Were comments received from external parties? No.

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

Why is the proposed rule necessary? The proposed amendments remove an obsolete form.

What does this proposed rule do? The proposed amendments remove an obsolete form that is used to notify property owners about the development of an interim assessment roll in their county – the only instance of an interim assessment roll occurred in the 1980's.

Were comments received from external parties? No.

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

Why is the proposed rule necessary? The proposed repeal removes a rule which has language that is almost identical to the statute it implements. The provisions of the statute will still apply to this topic.

What does this proposed rule do? The current rule requires state and local government entities to notify the appropriate property appraiser about any law, ordinance, resolution, regulation, executive order or proclamation that the entity adopts on topics dealing with limiting, regulating, or putting a moratorium on the development or improvement of property. The proposed amendments repeal this provision.

Were comments received from external parties? No. Because this is a proposed repeal, the Department did not publish a Notice of Development of Proposed Rule, as authorized by s. 120.54(2)(a), F.S. The Department does not expect any opposition to this proposed repeal.

Rule 12D-6.006, Fee Timeshare Developments

Why is the proposed rule necessary? The proposed amendments remove definitions in this rule that were intended by the Legislature to only be used for the regulatory purposes contained in Chapter 721, F.S., and delete language that is redundant of statutory language in Section 192.037, F.S.

What does this proposed rule do? These proposed amendments delete definitions for eight terms that were copied into this rule in 1994 from definitions in Section 721.05, F.S., one of the statutes that govern the regulation of the timeshare industry by the Florida Department of Business and Professional Regulation. These regulatory definitions do not directly apply to the ad valorem taxation of fee timeshare real property. Also, Section 721.03, F.S., states that the treatment of timeshare estates for ad valorem and special assessment purposes must be as prescribed in Chapters 192 through 200, F.S. The proposed amendments also delete provisions in the rule that are identical or substantially comparable to existing statutory provisions.

Were comments received from external parties? Yes. Workshops for these rules were held on August 14, 2012, and on September 19, 2012, and the Department received comments from the Timeshare industry. Agreeing with these comments, the Program removed definitions that are used in Chapter 721, F.S., and deleted provisions that are redundant of statute. A Notice of Rule Development for the revised draft was published in the July 29, 2013, edition of the Florida Administrative Register. No comments were received on this draft, and no one requested that a workshop be held.

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

Why is the proposed rule necessary? The proposed rule implement statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, Laws of Florida.

What does this proposed rule do? The proposed rule provides the process for veterans or their surviving spouses and other persons with disabilities to apply for exemptions or discounts in Sections 196.081, 196.082, 196.091, 196.101, 196.202, and 196.24, F.S., before receipt of documentation from the United States Department of Veterans Affairs, its predecessor, or the Social Security Administration.

Were comments received from external parties? No.

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

Why is the proposed rule necessary? The proposed amendments to this rule implement statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, L.O.F.

What does this proposed rule do? The proposed amendments establish procedures for counties and municipalities to follow for the purpose of granting the two optional exemptions to qualified taxpayers aged 65 and older who meet the requirements of Section 196.075, F.S. The two exemptions are: (A) an additional exemption of up to \$50,000; and (B) an exemption of less than \$250,000 of the just value of their property for qualified persons who have maintained their permanent residence on a property for at least 25 years. These two exemptions are only available in counties or municipalities that have passed a local ordinance.

Were comments received from external parties? No.

Rule 12D-8.0065, Assessment Roll Preparation and Approval

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

What does the proposed rule do? This proposed new rule implements statutory provisions that: establish procedures for the transfer of homestead assessment limitation difference (portability); provide necessary forms to apply for portability; designate the ownership shares to be attributed to a husband and wife who abandon a homestead property for purposes of determining the assessed value of a newly established homestead under certain circumstances; and provide instructions to property appraisers about how to handle late “portability” applications and denials of these applications.

Were comments received from external parties? Yes. The Department received comments during the Emergency Rule phase, which were incorporated into the rule.

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

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

What does the proposed rule do? These proposed amendments implement provisions from Section 192.0105, F.S., which contains the “Florida Taxpayer’s Bill of Rights” (for property taxes and assessments), to: remove the four hour wait time; provide that the petitioner’s wait time should not exceed two hours; and add the petitioner’s right to reschedule if the wait time exceeds two hours.

Were comments received from external parties? No.

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

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

What does the proposed rule do? These proposed amendments: require that certain information be provided with the notice provided to a petitioner concerning the time he or she is scheduled for an appearance before a value adjustment board and provide that a petition hearing be rescheduled if the hearing is not commenced within 2 hours after the scheduled time.

Were comments received from external parties? Yes. The Department reviewed the comments and made appropriate changes.

Rule 12D-9.020, Exchange of Evidence

Why is the proposed rule necessary? The proposed amendments to this rule implement: the Administrative Law Judge's ruling in Rob Turner, Hillsborough County Property Appraiser v. Department of Revenue; and a 2013 legislative change.

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

Were comments received from external parties? Yes. The rule draft was revised based on the comments.

12D-16.002, Index to Forms

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

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

Were comments received from external parties? Yes. The Department reviewed the comments and revised the forms. Comments were received on the DR-486, Petition to the VAB, Request for Hearing, form DR-485D, Decision of the VAB, Denial for Non-Payment.

These forms have been posted to the website for provisional use and were posted for comment to the county officials. Some additional forms have been revised since the last workshop (September 19, 2012) and were noticed for rule development on July 30, 2013.

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

DR-403EB, The (tax year) Ad Valorem Assessment Roll Exemption

Breakdown of _____ County, Florida, amended to add the new exemption passed in Amendment 11, as approved by voters in November 2012.

DR-403PC, The Value and Number of Parcels on the Real Property

Countywide Assessment Roll by Category, amended to correct line references and totals.

DR-403V, The (tax year) Revised Recapitulation of the Ad Valorem Assessment

Roll Value Data, amended to add the new senior exemption passed in Amendment 11, as voted in November 2012.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Category, amended to correct line references and totals.

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

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

DR-501, Original Application for Homestead and Related Tax Exemptions, amended form to include new types of exemptions from Chapter 2012-54, L.O.F., and Amendments 3, 9, and 11 as approved in 2012 statewide referendum.

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

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

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

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

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

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

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

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-1.002, 12D-1.009, AND 12D-1.010
CREATING RULE 12D-1.0025
REPEALING RULE 12D-1.011

SUMMARY OF PROPOSED RULES

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

Proposed new Rule 12D-1.0025, F.A.C., (Computation of Time; Due Dates Falling on Weekends and Holidays) provides that when a deadline specified in a statute or a rule falls on a weekend or holiday, the deadline is extended to the next regular working day.

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

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

The purpose of proposed new Rule 12D-1.0025 (Computation of Time; Due Dates Falling on Weekends and Holidays) is to clarify how deadlines for property tax actions will be applied when the deadline ends on a weekend or holiday.

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

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Notices of Rule Development for proposed rules 12D-1.002, and 12D-1.009, F.A.C., were published twice in the Florida Administrative Register, first on July 27, 2012 (Vol. 38, No. 30, pp. 3073-3074), and again on August 31, 2012 (Vol. 38, No. 35, pp. 3561-3562). Workshops for these rules were held on August 14, 2012 and on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology. No comments were received on either of these proposed rules.

Proposed Rules 12D-1.0025 and 12D-1.010, F.A.C., were published in the July 29, 2013 edition of the Florida Administrative Register (Vol. 39, No. 146, pp. 3736-3737). The Notice of Rule Development stated that a workshop would only be held if requested. No one requested that the Department hold a workshop on either of these proposed rules. A comment was received from the attorney for the Orange County Value Adjustment Board regarding proposed new Rule 12D-1.0025, F.A.C. No changes were made to the proposed rule based on this comment.

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

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: RULE TITLE:

12D-1.002 Definitions

12D-1.0025 Computation of Time; Due Dates Falling on Weekends and Holidays

12D-1.009 Mapping Requirements

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

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

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12D-1.002, F.A.C., (Definitions) is to implement a statutory change enacted in Section 1 of Chapter 2012-193, Laws of Florida. The effect of amending Rule 12D-1.002, F.A.C., is that the term “assessed value of property” is correctly defined. The purpose of proposed new Rule 12D-1.0025 (Computation of Time; Due Dates Falling on Weekends and Holidays) is to clarify how deadlines for property tax actions will be applied when the deadline ends on a weekend or holiday. The effect of creating Rule 12D-1.0025 is to eliminate confusion about how to handle a deadline that falls on a non-business day. The purpose of the proposed amendment to Rule 12D-1.009, F.A.C., (Mapping Requirements) is to update and clarify a provision dealing with the property ownership maps property appraisers use to help them identify, assess and value property. The effect of amending Rule 12D-1.009, F.A.C., is that the Department’s rules will reflect the most current procedures used by property appraisers. The purpose of the proposed amendments to Rule 12D-1.010, F.A.C., (Reconciliation of Interim Tax Rolls – Form of Notification) is to remove a form which is not used. The effect of amending Rule 12D-1.010,

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

SUMMARY: The proposed amendments to Rule 12D-1.002, F.A.C., (Definitions) revise the definition of the term “assessed value of property” to clarify that the term means all property, not just “homestead” property; and, that the term means an annual determination of the property’s just or fair market value, as well as the value of property that is in a classified use or a fractional value. Proposed new Rule 12D-1.0025, F.A.C., (Computation of Time; Due Dates Falling on Weekends and Holidays) provides that when a deadline specified in a statute or a rule falls on a weekend or holiday, the deadline is extended to the next regular working day. The proposed amendments to Rule 12D-1.009, F.A.C., (Mapping Requirements) remove an unnecessary limitation regarding the inclusion of recorded or unrecorded subdivisions on property ownership maps. The amendments to Rule 12D-1.010, F.A.C., (Reconciliation of Interim Tax Rolls – Form of Notification) remove an obsolete form that is used to notify property owners about the development of an interim assessment roll in their county – the only instance of an interim assessment roll occurred in the 1980’s. Rule 12D-1.011, F.A.C., (Notification to Property Appraiser of Land Development Restriction) which is being proposed for repeal, requires state and local government entities to tell the appropriate property appraiser about any law, ordinance, resolution, regulation, executive order or proclamation that the entity adopts on topics dealing with limiting, regulating, or putting a moratorium on the development or improvement of property.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Department has determined that each of these new and amended rules 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 (SERC) has not been prepared by the Department. The Department has determined that each of these proposed rules are not expected to require legislative ratification based on the SERC or if no SERC is required, the information expressly relied on and described herein: 1) no requirement for an SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a SERC, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 193.085(2), 195.027(1), 213.06(1), FS.

LAW IMPLEMENTED: 192.001, 193.011, 193.085, 193.1145, 193.122, 193.461, 195.022, 195.062, 197.162, 197.172, 197.322, 197.333, 197.343, 197.344, 197.432, 197.443 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013, 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida. The public can also participate in this workshop through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are

access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this workshop posted on the Department's site at the web site address listed: <http://dor.myflorida.com/dor/property/legislation/>.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to participate in any rulemaking proceeding before the Property Tax Oversight Program is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)617-8871. Persons with hearing or speech impairments may contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

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

(1) – (2) No change.

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

crops on the land ~~thereon~~.

(4) Taxpayer – The person or other legal entity in whose name the property is assessed.

The terms “owner” and “possessor” may be used interchangeably with “taxpayer” where the context ~~so~~ indicates.

(5) No change.

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

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

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

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

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

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

12D-1.0025 Computation of Time; Due Dates Falling on Weekends and Holidays.

(1) Unless otherwise prescribed by Chapters 192, 193, 194, 195, 196, 197, and 200, F.S., or by Rule Chapters 12D-1 through 12D-51, F.A.C., when computing any designated period of time, do not include the initial day. The last day of the period so computed is included.

(2) If the due date or deadline falls on a Saturday, Sunday, or legal holiday, the due date or deadline is extended to the next regular working day.

(3) As used in this rule, legal holiday means those days designated in Subsections (1) and (2) of Section 110.117, F.S.

Rulemaking Authority 195.027, 213.06(1) FS. Law Implemented 195.002(1), 195.027(1) FS.

History—New xx-xx-xx.

12D-1.009 Mapping Requirements.

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

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

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

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

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

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

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

Rulemaking Authority 193.085(2), 195.027(1), 213.06(1) FS. Law Implemented 195.022,

195.062 FS. History-New 10-12-76, Formerly 12D-1.09, Amended, xx-xx-xx.

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

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

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

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

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

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

~~DR 474R This Notice Shall Pertain Only to the 1980 Assessment Roll — See Reverse Side of Notice
R. 3/80~~

~~SEE REVERSE~~

~~SEE REVERSE~~

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

NOTICE

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

~~THIS IS NOT A BILL — DO NOT PAY~~

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

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

(4) ~~After~~ Upon recomputation, the property appraiser must shall extend the taxes against the

approved tax roll and ~~must shall~~ prepare a reconciliation between the interim roll and the final approved roll.

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

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

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

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

(8)(a) The tax collector ~~must shall~~ prepare and send mail to each taxpayer either

supplemental bills or refunds in the form of county warrants for each parcel, except that no bill ~~must shall~~ be issued and no refund ~~must shall~~ be authorized if the amount thereof is less than \$10.00. The supplemental billings or refunds ~~must shall~~ be accompanied by an explanatory notice in substantially the following form:

NOTICE OF SUPPLEMENTAL BILL OR REFUND OF PROPERTY TAXES

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

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

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

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

certificates.

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

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

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

(b) When the owner of record on the final approved reconciled tax roll is not the owner of record who apparently paid the interim taxes, and after a diligent search the tax collector cannot locate the interim taxpayer, the tax collector must shall publish a notice at least once each week for two weeks in a newspaper selected by the Board of County Commissioners. This notice must state ; that certain taxpayers may be entitled to a refund for the overpayment of interim taxes and that the taxpayer may file an application for refund with the tax collector.

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

(d) Refunds must shall be paid from money collected from the final approved reconciled tax roll. If funds are not sufficient to pay all refunds, then the tax collector must shall bill each taxing

authority for its proportionate share of any refund payable. The tax collector ~~must shall~~ commence the refund process within 90 days of the opening of the reconciled tax roll.

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

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

(13) Any outstanding tax ~~sale~~ certificates sold by the tax collector on delinquent interim assessments may be canceled. Tax ~~sale~~ certificates may be canceled ~~as provided in pursuant to~~ Section 197.443, F.S. If tax ~~sale~~ certificates are canceled, refunds to tax ~~sale~~ certificate holders ~~must shall~~ be processed immediately and interest ~~must shall~~ be paid according to subsection 197.432(10), F.S. See subsection 193.1145(10), F.S.

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

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

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

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

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

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

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

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

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

~~(2) The Governor shall notify the property appraiser in writing of any development limitation~~

~~or restriction due to an executive order or proclamation.~~

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

NAME OF PERSON ORIGINATING PROPOSED RULES IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES IS: The Governor and Cabinet of Florida.

DATE PROPOSED RULES APPROVED BY THE AGENCY HEAD: *[to be completed when the Governor and Cabinet authorize publication of these rule notices]*

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Proposed Rules 12D-1.002 and 12D-1.009, F.A.C., were published twice in the Florida Administrative Register, first on July 27, 2012 (Vol. 38, No. 30, pp. 3073-3074), and again on August 31, 2012 (Vol. 38, No. 35, pp. 3561-3562). Proposed Rules 12D-1.0025 and 12D-1.010, F.A.C., were published in the July 29, 2013 edition of the Florida Administrative Register (Vol. 39, No. 146, pp. 3736-3737). A Notice of Rule Development for the proposed repeal of Rule 12D-1.011, F.A.C., was not published in the Florida Administrative Register, as authorized by Section 120.54(2)(a), F.S.

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Notices of Rule Development for the original draft of proposed rule 12D-6.006, F.A.C., were published twice in the Florida Administrative Register, first on July 27, 2012 (Vol. 38, No. 30, pp. 3073-3074), and again on August 31, 2012 (Vol. 38, No. 35, pp. 3561-3562). Workshops for these rules were held on August 14, 2012 and on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology. A comment was received on the rule, and revisions were made to the rule.

A Notice of Rule Development for the revised draft of proposed Rule 12D-6.006, F.A.C. was published in the July 29, 2013 edition of the Florida Administrative Register. No comments were received on this draft, and no one requested that a workshop be held.

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: RULE TITLE:

12D-6.006 Fee Timeshare Real Property

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12D-6.006, F.A.C., (Fee Timeshare Real Property) is to remove definitions in this rule that were intended by the Legislature to only be used for the regulatory purposes contained in Chapter 721, F.S. and, delete rule language which is redundant of statutory language in Section 192.037, F.S., as required by Section 120.74(1)(d), F.S., of the Administrative Procedure Act. The effect of these proposed rule revisions is to provide property appraisers with better procedures for assessing fee timeshare real property.

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Department has determined that this amended 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 (SERC) has not been prepared by the Department. The Department has determined that this proposed rule is not expected to require legislative ratification based on the SERC or if no SERC is required, the information expressly relied on and described herein: 1) no requirement for an SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a SERC, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1), 213.06(1), FS.

LAW IMPLEMENTED: 192.001, 192.037, 193.011 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013, 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida. The public can also participate in this workshop through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this workshop posted on the Department's site at the web site address listed: <http://dor.myflorida.com/dor/property/legislation/>.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to participate in any rulemaking proceeding before the Property Tax Oversight Program is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)617-8871. Persons with hearing or speech impairments may contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

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

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

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

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

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

~~(d) “Time share development” means the combined individual time share periods or time share estates of a time share property as contained in a single entry on the tax roll. (Section 192.037(2), F.S.)~~

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

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

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

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

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

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

~~(k) “Time share unit” means an accommodation of a time share plan which is divided into time share periods. (Section 721.05(34), Florida Statutes.)~~

(3) Method of Assessment and Valuation.

(a) 1. Each fee timeshare ~~time share~~ development, as described ~~defined~~ in Section 192.037(2), F.S. paragraph (2)(d) of this rule, must ~~shall~~ be listed on the assessment roll as a single entry.

~~(b) The assessed value of each time share development shall be the value of the combined individual time share periods or time share estates contained therein.~~

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

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

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

~~the basis for determining the extent of any deductions and allowances that may be appropriate.~~

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

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

~~(b) The assessed value listed for each time share development shall be derived by the property appraiser in the manner prescribed in paragraph (3) of this rule.~~

~~(5) Billing and Collection.~~

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

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

~~(c) The tax collector shall accept only full payment of the taxes and special assessments due on the time share development and sell tax certificates as provided in paragraph 12D-13.051(2)(b), F.A.C., on the time share development as a whole parcel, as listed on the tax roll. Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.001, 192.037, 193.011, 721.05 FS. History—New 5-29-85, Formerly 12D-6.06, Amended 12-27-94,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE IS: The Governor and Cabinet of Florida.

DATE PROPOSED RULE APPROVED BY THE AGENCY HEAD: *[to be completed when the Governor and Cabinet authorize publication of these rule notices]*

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Different versions of proposed Rule 12D-6.006, F.A.C., were published three times in the Florida Administrative Register: July 27, 2012 (Vol. 38, No. 30, pp. 3073-3074), August 31, 2012 (Vol. 38, No. 35, pp. 3561-3562), and July 29, 2013 (Vol. 39, No. 146, pp. 3736-3737).

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

SUMMARY OF PROPOSED RULES

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

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

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

A Notice of Rule Development for proposed Rule 12D-7.0143, F.A.C., was published in

the July 29, 2013 edition of the Florida Administrative Register (Vol. 39, No. 146, pp. 3737-3738). This notice stated that a workshop would only be held if requested by the public. No comments were received on this draft, and no one requested that a workshop be held.

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

PROPERTY TAX OVERSIGHT PROGRAM

RULE NO: RULE TITLE:

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

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

PURPOSE AND EFFECT: The purpose of adopting proposed Rule 12D-7.0025, F.A.C., (Application for Certain Exemptions Before Receiving Statutorily Required Documentation) is to implement statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, Laws of Florida. The effect of proposed Rule 12D-7.0025, F.A.C., is to allow qualifying veterans or their surviving spouses to receive the exemption or discount as of the date of their original application and to apply for a refund of any excess taxes that have been paid. The purpose of amending Rule 12D-7.0143, F.A.C., (Additional Homestead Exemptions for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year) is to implement Chapter 2012-57, Laws of Florida, based on the new Constitutional exemption for certain seniors that was approved by voters in the 2012 election. The effect of amending Rule 12D-7.0143, F.A.C. is to provide property appraisers with better procedures to follow as they administer these two exemptions.

SUMMARY: Proposed new Rule 12D-7.0025, F.A.C. (Application for Certain Exemptions Before Receiving Statutorily Required Documentation) lets veterans or their surviving spouses apply for exemptions or discounts in Sections 196.081, 196.082, 196.091, 196.101, 196.202, and

196.24, F.S., before receipt of documentation from the United States Department of Veterans Affairs, its predecessor, or the Social Security Administration. The proposed rule allows the property appraiser to grant the exemption or discount after reviewing the missing documentation. The proposed rule gives the applicant the option to apply for a refund of excess taxes paid. The proposed amendments to Rule 12D-7.0143, F.A.C. (Additional Homestead Exemptions for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year) establish procedures for counties and municipalities to follow so that they can grant the two optional exemptions to qualified taxpayers aged 65 and older who meet the requirements of Section 196.075, F.S. The two exemptions are: (A) an additional exemption of up to \$50,000; and/or (B) an exemption of less than \$250,000 of the just value of their property for qualified persons who have maintained their permanent residence on a property for at least 25 years. These two exemptions are only available in counties or municipalities that have passed a local ordinance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined each of these rules 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 each of these proposed rules is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed

nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1), 196.075(5), 213.06(1) FS.

LAW IMPLEMENTED: 193.074, 196.015, 196.031, 196.075, 196.081, 196.082, 196.091, 196.101, 196.202, 196.24, 197.182 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013 beginning at 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee Florida. The public can also participate in this hearing through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this hearing posted on the Department's site at: <http://dor.myflorida.com/dor/property/legislation/>.

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULES ARE: For Proposed Rule 12D-7.0025 – Larry Green, Tax Law Specialist, telephone (850)617-8871 or email greenlar@dor.state.fl.us. For Proposed Rule 12D-7.0143 – Robert Blick, Tax Law Specialist, telephone (850)617-8879 or email blickr@dor.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

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

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

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

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

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

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

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

documentation.

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

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

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

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 196.081, 196.082, 196.091, 196.101, 196.202, 196.24, 197.182, 213.05 FS. History—New xx-xx-xx.

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

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

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

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

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

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

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

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

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

(3) Proof of age is ~~shall be~~ prima facie established for persons 65 and older by submitting ~~submission of~~ one of the following: certified copy of birth certificate; driver's ~~drivers~~ license or Florida identification card; passport; life insurance policy in effect for more than two years;

marriage certificate; Permanent Resident Card (~~formerly known as Alien Registration Card~~); certified school records; or certified census record. If none of these forms of identification is submitted ~~In the absence of one of these forms of identification~~, the property appraiser may rely on appropriate proof.

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

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

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

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

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

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

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

NAMES OF PERSONS ORIGINATING PROPOSED RULES ARE: For Rule 12D-7.0025 – Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 300, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us. For Rule 12D-7.0143, F.A.C, Robert Blick, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8879, email blickr@dor.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES IS: The Governor and Cabinet of Florida.

DATE PROPOSED RULES APPROVED BY THE AGENCY HEAD: *[to be completed when the Governor and Cabinet authorize publication of these rule notices]*

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Proposed Rule 12D-7.0025 was published twice in the Florida Administrative Register, first on July 27, 2012 (Vol. 38, No. 30, pp. 3074-3075) and again on August 31, 2012 (Vol. 38, No. 35, pp. 3562-3563). Proposed Rule 12D-7.0143 was published in the July 29, 2013 edition of the Florida Administrative Register (Vol. 39, No. 146, pp. 3737-3738).

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

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

A second Notice of Rule Development for proposed new Rule 12D-8.0065, F.A.C., was published in the Florida Administrative Register on June 22, 2012 (Vol. 38, No. 25, p. 2541), and a workshop was held for the proposed rule on August 14, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology.

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

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: The purpose of adopting this proposed rule (which replaces Emergency Rule 12DER12-08) is to implement the provisions of Chapter 2008-173, L.O.F., and Section 5 of Ch. 2012-193, L.O.F. The effect of adopting this rule is that authorized procedures will be available to both taxpayers and property appraisers which support applications for, and processing of, taxpayer’s “Portability” requests.

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Department has determined that this new 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 (SERC) has not been prepared by the Department. The Department has determined that this proposed rule is not expected to require legislative ratification based on the SERC or if no SERC is required, the information expressly relied on and described herein: 1) no requirement for an SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a SERC, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1), 213.06(1), FS.

LAW IMPLEMENTED: 192.047, 193.114, 193.1142, 193.155, 193.461, 193.703, 194.011 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013, 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida. The public can also participate in this workshop through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this workshop posted on the Department's site at the web site address listed: <http://dor.myflorida.com/dor/property/legislation/> .

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to

participate in any rulemaking proceeding before the Property Tax Oversight Program is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)617-8871. Persons with hearing or speech impairments may contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

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

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

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

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

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

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

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

(2) Section 193.155(8), F.S., provides the procedures for the transfer of the homestead assessment difference, within stated limits, when a homestead is abandoned. This rule describes those procedures, which are an alternative to assessment at just value. The amount of the assessment difference is transferred as a reduction to the just value of the interest owned by taxpayers that qualify and receive homestead exemption on a new homestead.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Splitting - When two or more people who previously shared a homestead abandon that homestead and establish separate homesteads, the maximum total amount that can be transferred is \$500,000. Within that limit, each taxpayer who received a homestead exemption and is eligible to transfer an amount is limited to a share of the previous homestead's difference between assessed value and just value. The shares of the taxpayers that received the homestead exemption cannot total more than 100 percent.

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

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

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

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

a. Be married to each other on the date the jointly titled property is abandoned.

b. Each execute the sworn statement designating the person's ownership share on Form DR-501TS.

c. File a complete and valid Form DR-501TS with the previous property appraiser before either person applies for portability on Form DR-501T with the new property appraiser.

d. Include a copy of Form DR-501TS with the homestead exemption application filed with the new property appraiser as described in subsection (3).

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

(c) Joining - When two or more people, some of whom previously owned separate homesteads and received a homestead exemption, join together to qualify for a new homestead, the maximum amount that can be transferred is \$500,000. Within that limit, the amount that can be transferred is limited to the highest difference between assessed value and just value from any of the taxpayers' former homesteads.

(6) Abandonment

(a) To transfer an assessment difference, a homestead owner must abandon the homestead before January 1 of the year the new application is made. To do this, the taxpayer must notify the property appraiser in writing by the time he or she applies for the new homestead exemption. To transfer the assessment difference, the previous homestead must be reassessed at just value as of January 1, subject to Subsections 193.155(8) and 193.155(3), F.S., which provide for assessment at other than just value.

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

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

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

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

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

(8) Procedures for property appraiser:

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

1. The previous property appraiser must complete Form DR-501RVSH, Certificate for Transfer of Homestead Assessment Difference (incorporated by reference in Rule 12D-16.002, F.A.C.). By April 1 or within two weeks after receiving Form DR-501T, whichever is later, the

previous property appraiser must send this form to the new property appraiser. As part of the information returned on Form DR-501RVSH, the previous property appraiser must certify that the amount transferred is part of a previous homestead that has been or will be reassessed at just value as of January 1 of the year after the year in which the abandonment occurred as described in subsection (2)(a)3. of this rule.

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

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

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

1. Flag for current year assessment difference transfer;

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

3. Assessment difference value transferred;

4. County number of previous homestead;

5. Parcel ID of previous homestead;

6. Year from which assessment difference value was transferred;

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

(9) The transfer of an assessment difference is not final until all values on the assessment roll on which the transfer is based are final. If the values are final after the procedures in these rules are exercised, the property appraiser(s) must make appropriate corrections and send a corrected assessment notice. Any values that are in administrative or judicial review must be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), F.S. may be fulfilled. This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

(10) Additional provisions.

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

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

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

(d) If the new property appraiser has not received enough information to identify the previous homestead and the transferable amount in time to include it on the notice of proposed property

taxes, the taxpayer may file a petition with the value adjustment board in the county of the new homestead.

(11) Denials.

(a) If the taxpayer is not qualified for transfer of any assessment difference, the new property appraiser must send Form DR-490PORT, Notice of Denial of Transfer of Homestead Assessment Difference, (incorporated by reference in Rule 12D-16.002, F.A.C.) to the taxpayer by July 1 and include the reasons for the denial.

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

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

(12) Late applications.

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

(b) Any taxpayer who is qualified to have his or her property assessed under Section 193.155(8), F.S., who fails to file an application by March 1, may file an application for assessment under that subsection and, under Section 194.011(3), F.S., may file a petition with the

value adjustment board requesting the assessment be granted. The petition may be filed at any time during the taxable year by the 25th day following the mailing of the notice by the property appraiser as provided in Section 194.011(1), F.S. In spite of Section 194.013, F.S., the taxpayer must pay a nonrefundable fee of \$15 when filing the petition, as required by paragraph (j) of Section 193.155(8), F.S. After reviewing the petition, the property appraiser or the value adjustment board may grant the assessment under Section 193.155(8), F.S., if the property appraiser or value adjustment board find the taxpayer is qualified and demonstrates particular extenuating circumstances to warrant granting the assessment.

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

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE IS: The Governor and Cabinet of Florida.

DATE PROPOSED RULE APPROVED BY THE AGENCY HEAD: *[to be completed when the Governor and Cabinet authorize publication of these rule notices]*

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: The first Notice of Rule Development for this proposed new rule was published in the July 1, 2011 edition of the Florida Administrative Weekly (Vol. 37, No. 26, p. 1788). A second Notice of Rule Development was published in the June 22, 2012 edition of the Florida Administrative Weekly (Vol. 38, No. 25, p. 2541). A third Notice of Rule Development for proposed new Rule 12D-

8.0065, F.A.C., was published in the Florida Administrative Register on August 31, 2012 (Vol. 38, No. 35, p. 3563).

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

SUMMARY OF PROPOSED RULES

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

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

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

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

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

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

A Notice of Rule Development for proposed Rule 12D-9.020, F.A.C., was published in the March 22, 2012 edition of the Florida Administrative Weekly (Vol. 38, No. 9, pp. 917-918).

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

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

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: RULE TITLE:

12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings

12D-9.019 Scheduling and Notice of a Hearing

12D-9.020 Exchange of Evidence

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12D-9.001 and 12D-9.019, F.A.C., is to implement statutory changes enacted in Sections 2 and 11 of Chapter 2012-193, Laws of Florida. The effect of amending Rules 12D-9.001 and 12D-9.019, F.A.C., is to: recognize a taxpayer's statutory right to request a rescheduled hearing appointment, if their petition is not heard at a value adjustment board (VAB) proceeding within a reasonable time after their originally-scheduled appointment; ensure petitioners to the VAB receive important information about their scheduled hearing; and, ensure the Department's rules reflect recent statutory changes.

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

SUMMARY: The proposed amendments to Rule 12D-9.001, F.A.C., implement provisions from Section 192.0105, F.S., which contains the "Florida Taxpayer's Bill of Rights" (for

property taxes and assessments), to: remove the four hour wait time; provide that the petitioner's wait time should not exceed two hours; and, add the petitioner's right to reschedule if the wait time exceeds two hours. The proposed amendments to Rule 12D-9.019, F.A.C., implement provisions from Chapter 2012-193, Laws of Florida, to: require that certain information be provided with the notice provided to a petitioner concerning the time he or she is scheduled for an appearance before a VAB; provide that a petition hearing be rescheduled if the hearing is not commenced within 2 hours after the scheduled time; and, remove a requirement that the property record card be sent with the notice of hearing. The proposed amendments to Rule 12D-9.020, F.A.C., implement the Administrative Law Judge's ruling in Rob Turner, Hillsborough County PA vs. DOR (DOAH Case No.:11-677, summary Final Order dated June 22, 2011), which found the rule contradicts Section 194.011(4)(a), F.S., regarding the exchange of evidence process for VAB hearings; and, implement a change in Section 8 of Chapter 2013-109, Laws of Florida, which requires that the property appraiser, instead of the Clerk, now provide a copy of the property record card to the petitioner.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Department has determined that each of these new and amended rules 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 (SERC) has not been prepared by the Department. The Department has determined that each of these proposed rules are not expected to require legislative ratification based on the SERC or if no SERC is required, the information expressly relied on and described herein: 1) no requirement for an SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for

providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a SERC, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 194.011(5), 194.034(1), 195.027(1), 213.06(1), FS.

LAW IMPLEMENTED: 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301, 195.002, 195.022, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 200.069, 213.05 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013, 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida. The public can also participate in this workshop through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this workshop posted on the Department's site at the web site address listed: <http://dor.myflorida.com/dor/property/legislation/> .

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to participate in any rulemaking proceeding before the Property Tax Oversight Program is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)617-8871. Persons with hearing or speech impairments may contact the Department using

the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

(2) These rights include:

(a) through (d) No change.

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

(f) through (o) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented

192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301,

195.002, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 213.05 FS.

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

12D-9.019 Scheduling and Notice of a Hearing.

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

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

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

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

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

(3)(a) The notice of hearing before the value adjustment board shall be in writing, and shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than

twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice of hearing form shall meet the requirements of this section and shall be subject to approval by the department. The department provides Form DR-481 as a format for the form of such notice. Form DR-481 is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice shall include these elements:

1. The parcel number, account number or legal address of all properties being heard at the scheduled hearing;
2. The type of hearing scheduled;
3. The date and time of the scheduled hearing; however, if the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time shall be indicated on the notice;
4. The time reserved, or instructions on how to obtain this information;
5. The location of the hearing, including the hearing room number if known, together with board clerk contact information including office address and telephone number, for petitioners to request assistance in finding hearing rooms;
6. Instructions on how to obtain a list of the potential special magistrates for the type of petition in question;
7. A statement of the petitioner's right to participate in the exchange of evidence with the property appraiser;
8. A statement that the petitioner has the right to reschedule the hearing one time by making a written request to the board clerk at least five calendar days before the hearing;
9. Instructions on bringing copies of evidence;

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

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

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

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

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

1. Petitioner is scheduled for a value adjustment board hearing for the same time in another jurisdiction;
2. Illness of the petitioner or a family member;
3. Death of a family member;

4. The taxpayer's hearing does not begin within a reasonable time of their scheduled hearing time; or

5. Other reasons beyond the control of the petitioner.

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

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

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

(b) If the board or a board designee determines that the request demonstrates good cause, the request will be granted. In that event, the board clerk will issue a notice of hearing with the new hearing date, which shall be the earliest date that is convenient for all parties.

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

(d) When rescheduling hearings under this rule subsection or subsection (4) above, if the parties are unable to agree on an earlier date, the board clerk is authorized to schedule the hearing and send a notice of such hearing by regular or certified U.S. mail or personal delivery,

or in the manner requested by the petitioner on the petition Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The board clerk is responsible for notifying the parties of any rescheduling.

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

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

(b) In no event shall a petitioner be required to wait more than a reasonable time ~~after from~~ the scheduled time to be heard or, if the petition has been scheduled to be heard within a block of time, after the beginning of the block of time. A reasonable time shall not exceed four hours. The board clerk is authorized to find that a reasonable time has elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the day, and other hearings waiting to be heard earlier than the petitioner's hearing with the board or special magistrate. If his or her petition has not been heard within a reasonable time, the petitioner may request to be heard immediately. If the board clerk finds a reasonable time has elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall reschedule the petitioner's hearing. A reasonable time must not exceed two hours. After two hours, the petitioner has the right to inform the board chairperson, or the clerk as board designee, that he or she intends to leave, but need not exercise that right. If the hearing is not commenced within two hours, and the petitioner leaves, the clerk must reschedule the hearing. A rescheduling under this paragraph is not considered to be a request to reschedule as provided in paragraph (4)(a).

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

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

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

12D-9.020 Exchange of Evidence.

(1) Florida Statutes provide that at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence, accompanied by copies of documentation, to be presented at the hearing. Even if a petitioner does not comply with subsection 194.011(4)(a), F.S., the petitioner may still present evidence and the board or special magistrate may accept such evidence for consideration. ~~The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate.~~ However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more

specifically described in subsection (8) of this rule and in paragraphs Rule 12D-9.025(4)(a) and (f), F.A.C.

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

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

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

(d) through (9) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS. History—New 3-30-10, Amended xx-xx-xx.

NAME OF PERSON ORIGINATING PROPOSED RULES IS: Larry Green, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8871, email greenlar@dor.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES IS: The Governor and Cabinet of Florida.

DATE PROPOSED RULES APPROVED BY THE AGENCY HEAD: *[to be completed when the Governor and Cabinet authorize publication of these rule notices]*

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: A Notice of Rule Development for proposed Rule 12D-9.020, F.A.C., was published in the March 22, 2012 edition of the Florida Administrative Weekly (Vol. 38, No. 9, pp. 917-918).

Notices of Rule Development for proposed Rules 12D-9.001, 12D-9.019, and 12D-9.020, F.A.C., were published twice in the Florida Administrative Weekly: on July 27, 2012 (Vol. 38, No. 30, p. 3075); and, on August 31, 2012 (Vol. 38, No. 35, pp. 3563-3564).

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

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

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

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF REVENUE

PROPERTY TAX OVERSIGHT PROGRAM

RULE NO: RULE TITLE:

12D-16.002 Index to Forms

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

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

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Department has determined that this amended 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 (SERC) has not been prepared by the Department.

The Department has determined that this proposed rule is not expected to require legislative ratification based on the SERC or if no SERC is required, the information expressly relied on and described herein: 1) no requirement for an SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would

exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who wishes to provide information regarding a SERC, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.1556, 193.461, 193.501, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 196.011, 196.015, 196.031, 196.075, 196.081, 196.082, 196.091, 196.095, 196.101, 196.121 196.131, 196.141, 196.151, 196.161, 196.173, 196.183, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 196.26, 197.182, 197.222, 197.2423, 197.2425, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, 213.05, 218.12, 218.125, 218.66, 218.67 FS

A HEARING WILL BE HELD AT THE DATE TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 17, 2013, 9:00 a.m.

PLACE: Conference Room 3503, Building 2, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee Florida. The public can also participate in this hearing through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology from their home or office. The requirements to participate are access to the Internet and a telephone. Specific information about how to participate in this electronic meeting will be included in the Agenda for this hearing posted on the Department's site at: <http://dor.myflorida.com/dor/property/legislation/>

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodations to participate in any rulemaking proceeding before the Property Tax Oversight Program is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)617-8871. Persons with hearing or speech impairments may contact the Department using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dianne Porter, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850) 617-8880 or email porterd@dor.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-16.002 Index to Forms.

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

	Form Number	Form Title	Effective Date
(2)		No change.	
(3)(a)	DR-402	Declaration of Mobile Home as Real Property (r. xx/xx)	xx/xx 6/83
(b)	through (5)(a)	No change.	
(b)	DR-403EB	The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida (r. 12/12 6/11)	xx/xx 11/12
(6)(a)	DR-403PC	The Value and Number of Parcels on the Real Property Countywide Assessment Roll by Category (r. 12/12 6/11)	xx/xx 11/12
(b)	DR-403V	The (tax year) Revised Recapitulation of the Ad Valorem Assessment Roll Value Data (r. 12/12 6/11)	xx/xx 11/12

(7)(a)	through (8)(b)	No change.	
(9)(a)	DR-409	Certificate of Correction of Tax Roll (r. <u>3/13 4/12</u>)	<u>xx/xx 4/12</u>
(9)(b)	through (12)(b)	No change.	
(13)(a)	DR-418	Economic Development Ad Valorem Property Tax Exemption (r. <u>xx/xx 12/99</u>)	<u>xx/xx 4/00</u>
(b)	through 14(a)	No change.	
(b)	through (e)	No change.	
(f)	DR-420S	Certification of School Taxable Value (r. <u>5/13 5/14</u>) https://www.flrules.org/Gateway/reference.asp?No=Ref-01756	<u>xx/xx 4/12</u>
(g)	through (15)(a)	No change.	
(b)	DR-422	Certification of Final Taxable Value (r. <u>5/13 5/14</u>) https://www.flrules.org/Gateway/reference.asp?No=Ref-01759	<u>xx/xx 11/12</u>
(c)	through (17)(c)	No change.	
(18)	DR-456	Notice of New, Rebuilt, or Expanded Property (r. <u>xx/xx</u>)	<u>xx/xx 9/84</u>
(19)	through (20)	No change.	
(21)(-a)	DR-471	Railroad Distribution Sheet (r. 1/95)	4/12
(a) (b)	DR-474	Notice of Proposed Property Taxes (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01768	1/12
(b) (e)	DR-474M	Amended Notice of Proposed Property Taxes (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01769	11/12
(c) (d)	DR-474N	Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01770	11/12
(22)	DR-481	Value Adjustment Board – Notice of Hearing (r. <u>xx/xx n. 11/12</u>)	<u>xx/xx 3/10</u>
(23)(a)	DR-482	Application and Return for Agricultural Classification of Lands (r. <u>xx/xx 12/00</u>)	<u>xx/xx 4/01</u>
(b)	through (c)	No change.	
(d)	<u>DR-482HP</u>	<u>Application and Return for Classification/Exemption of Property as Historic Property Used for Commercial or Certain Nonprofit Purposes (r. xx/xx)</u>	<u>xx/xx 12/04</u>
(e) (d)	DR-482HW	Application and Return for High-Water Recharge Classification of Lands (r. <u>xx/xx n. 12/99</u>)	<u>xx/xx 4/00</u>
(e)	DR-482HP	Application and Return for Classification/Exemption of Property as Historic Property Used for Commercial or Certain Nonprofit Purposes (r. 12/04)	12/04
(f)		No change.	
(24)	DR-484	Budget Form for Property Appraisers (r. <u>xx/xx 4/12</u>) https://www.flrules.org/Gateway/reference.asp?No=Ref-01773	<u>xx/xx 4/12</u>
(25)		485 Series:	
(a)	<u>DR-485D</u>	<u>Decision of the Value Adjustment Board Denial for Non-Payment (r. xx/xx)</u>	<u>xx/xx</u>
(b)	DR-485M	Notice of Decision of The Value Adjustment Board (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01774	11/12
(c) (b)	DR-485R	Value Adjustment Board – Remand to Property Appraiser (n. 12/09)	3/10
(d) (e)	DR-485V	Decision of The Value Adjustment Board – Value Petition (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01775	11/12
(e) (d)	DR-485WCN	Value Adjustment Board – Clerk’s Notice (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01776	11/12
(f) (e)	DR-485WI	Value Adjustment Board – Withdrawal of Petition (n. 12/09)	3/10

(g) (f)	DR-485XC	Decision of The Value Adjustment Board – Exemption, Classification, or Assessment Difference Transfer Petition (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01777	11/12
(26)		486 Series:	
(a)	DR-486	Petition to the Value Adjustment Board – Request for Hearing (r. xx/xx 12/09)	xx/xx 3/10
(b)		No change.	
(c)	DR-486PORT	Petition to the Value Adjustment Board – Transfer of Homestead Assessment Difference -- Request for Hearing (r. xx/xx 12/09)	xx/xx 3/10
(d)	DR-486XCO	No change.	
(e)	DR-487	Certification of Compliance (r. 5/13 5/11) https://www.flrules.org/Gateway/reference.asp?No=Ref-01779	xx/xx 11/12
(f)	through (28)	No change.	
(29)(a)	DR-489EB	The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida (r. 12/12 6/11)	xx/xx 11/12
(b)	DR-489PC	The Value and Number of Parcels on the Real Property Countywide Assessment Roll by Category (r. 12/12 6/11)	xx/xx 11/12
(c)	DR-489V	The (tax year) Preliminary Recapitulation of the Ad Valorem Assessment Roll, Value Data (r. 12/12 n-6/11)	xx/xx 11/12
(30)(a)	DR-490	Notice of Disapproval of Application for Property Tax Exemption or Classification by the County Property Appraiser (r. xx/xx 11/12)	xx/xx 11/12
(30)(b)	through (38)	No change.	
(39)(a)	DR-501	Original Application for Homestead and Related Tax Exemptions (r. 12/12 11/12)	xx/xx 11/12
(b)	through (c)	No change.	
(d)	DR-501DV	Application for Homestead Tax Discount, Veterans Age 65 and Older with a Combat-Related Disability (r. 12/12 n-11/12)	xx/xx 11/12
(e)	through (g)	No change.	
(h)	DR-501SC	Adjusted Gross Household Income Sworn Statement and Return (r. 12/12 11/12)	xx/xx 11/12
(i)	DR-501T	Transfer of Homestead Assessment Difference, Attachment to Original Application for Homestead Tax Exemption (r. 12/08)	11/12
(j)	<u>DR-501TS</u>	<u>Designation of Ownership Shares of Abandoned Homestead (n. xx/xx)</u>	xx/xx
(40)(a)	through (41)(b)	No change.	
(c)	DR-504HA	Ad Valorem Tax Exemption Application and Return – Homes for the Aged (r. xx/xx n-11/01)	xx/xx 12/01
(d)	through (43)(b)	No change.	
(44)(a)	DR-507C	List of Certificates Sold for Taxes (r. 12/06)	10/07
(b)	DR-508	Application for Separate Assessment of Mineral, Oil and Other Sub-Surface Rights (r. 12/94)	12/94
(45)(a)	through (48)(e)	No change.	
(49)(a)	DR-517C	Warrant Register (continuous) (n. 9/82)	9/82
(b)	DR-517L	Execution and Warrant for Collection of Delinquent Ad Valorem Leasehold Taxes (r. 12/96)	12/96
(50)(a)	DR-518	Cut Out Request (r. xx/xx 12/92)	xx/xx 12/92
(b)	DR-520A	Tax Roll Sheet	10/91
(51)(a)	DR-521	Index Tax Roll Sheet	10/91
(a) (b)	DR-528	Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments (example only) (r. 11/12)	

		https://www.flrules.org/Gateway/reference.asp?No=Ref-01806	11/12
(b) (e)	DR-529	Notice Tax Impact of Value Adjustment Board (r. 12/09)	3/10
(52)(a)	through (57)(a)	No change.	
(b)	DR-584	Budget Form for Tax Collectors (r. xx/xx 11/12)	
		https://www.flrules.org/Gateway/reference.asp?No=Ref-01813	xx/xx 11/12
(58)	through (60)	No change.	
(61)(a)	DR-593	Application for Section 218.66, F.S., Special Distributions for Contested Property Taxes (r. xx/xx n. 6/98)	xx/xx 12/98
(b)		No change.	

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Dianne Porter, Tax Law Specialist,
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NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Governor and
Cabinet of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be inserted upon approval.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Proposed
Rules 12D-16.002, F.A.C., were published twice in the Florida Administrative Weekly; first on
July 27, 2012 (Vol. 38, No. 30, pp. 3075-3076) and again on August 31, 2012 (Vol. 38, No. 35,
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