

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

December 6, 2011

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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 August 16, 2011 and September 20, 2011. (ATTACHMENT 1)	RECOMMEND APPROVAL
2.	Respectfully request adoption and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, for the following rules: Statutory Extension of Florida Estate Tax Exemption Period: propose amendments extending the period in which no Florida estate tax return is due through December 31, 2012, pursuant to statutory change. <i>[Rules 12C-3.0015 and 12C-3.008, F.A.C.]</i> Statutory Changes to Calculation of Communications Services Tax, Tax Rates and Terminology; Clarification of Collection Allowance Requirements: propose amendments updating the method of calculating tax, local tax rates, and terminology, in accord with statutory changes; clarifying the requirements necessary for a dealer to qualify for a higher collection allowance. <i>[Rules 12A-19.041 and 12A-19.100, F.A.C.]</i> Clarify Fuel Tax Licensing Requirements; Refund Procedure; Update Tax Rates: propose amendments to terminology and bonding requirements in response to a request made by the Joint Administrative Procedures Committee; provide procedure for obtaining a refund on fuel used for commercial fishing; update annual fuel tax rates. <i>[Rule Chapter 12B-5, F.A.C.]</i> Statutory Changes to Florida Tax Credit Scholarship Program: propose amendments to eliminate the 75% credit limitation, eliminate restriction on rescindment of the credit, and extend the carryforward of unused tax credits to five years, in accord with statutory changes. <i>[Rules 12-29.002 and 12-29.003, F.A.C.]</i>	

Clarify Confidentiality Requirements: propose amendments clarifying confidentiality requirements of employees handling confidential tax information under the Registration Information Sharing and Exchange (RISE) Program. *[Rule 12-22.007, F.A.C.]*

Update Annual Tax Returns: propose amendments removing obsolete or unnecessary provisions for Sales and Use Tax; Solid Waste Fees and Rental Car Surcharge; Severance Taxes; Insurance Premium Tax; Corporate Income Tax and Emergency Excise Tax; and Tax on Governmental Leasehold Estates. *[Rules 12-3.0015, 12-6.0015, 12-16.003, 12-18.001, 12-18.004, 12-22.005, 12A-1.0142, 12A-1.097, 12A-1.107, 12A-16.008, 12B-7.008, 12B-7.026, 12B-8.001, 12B-8.0012, 12B-8.003, 12B-8.006, 12B-8.007, 12B-8.016, 12C-1.003, 12C-1.051, 12C-1.343, and 12C-2.0115, F.A.C.]*

(ATTACHMENT 2)

RECOMMEND APPROVAL

THE CABINET
STATE OF FLORIDA

Representing:

STATE BOARD OF ADMINISTRATION

DIVISION OF BOND FINANCE

AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY

FINANCIAL SERVICES COMMISSION, OFFICE OF
INSURANCE REGULATION

DEPARTMENT OF REVENUE

DEPARTMENT OF LAW ENFORCEMENT

ADMINISTRATION COMMISSION

FLORIDA LAND & WATER ADJUDICATORY COMMISSION

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
August 16, 2011, commencing at 9:05 a.m.

Reported by:

JO LANGSTON

Registered Professional Reporter

Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.

2894 REMINGTON GREEN LANE

TALLAHASSEE, FLORIDA 32308

(850) 878-2221

APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

* * *

1	INDEX		
2	STATE BOARD OF ADMINISTRATION		
3	(Presented by ASH WILLIAMS)		
4	ITEM	ACTION	PAGE
5	1	Approved	8
6	2	Deferred	9
7	3	Approved	9
8	DIVISION OF BOND FINANCE		
9	(Presented by BEN WATKINS)		
10	ITEM	ACTION	PAGE
11	1	Approved	15
12	AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY		
13	(Presented by DAVID TAYLOR)		
14	ITEM	ACTION	PAGE
15	1	Approved	16
16	2	Deferred	26
17	FINANCIAL SERVICES COMMISSION, OFFICE OF		
18	INSURANCE REGULATION		
19	(Presented by KEVIN McCARTY)		
20	ITEM	ACTION	PAGE
21	1	Approved	28
22	2	Information	28
23	DEPARTMENT OF REVENUE		
24	(Presented by LISA VICKERS)		
25	1	Approved	57
	2	Approved	75

1	INDEX (continued)		
2	DEPARTMENT OF LAW ENFORCEMENT		
	(Presented by GERALD BAILEY)		
3			
	ITEM	ACTION	PAGE
4	1	Approved	76
	2	Approved	81
5	3	Approved	82
6			
7	ADMINISTRATION COMMISSION		
	(Presented by PHILLIP MILLER)		
8			
	ITEM	ACTION	PAGE
9	1	Approved	83
	2	Approved	88
10			
11	FLORIDA LAND & WATER ADJUDICATORY COMMISSION		
	(Presented by PHILLIP MILLER)		
12			
	ITEM	ACTION	PAGE
13	1	Approved	90
	2	Approved	91
14	3	Approved	92
15			
16	BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND		
	(Presented by HERSCHEL VINYARD)		
17			
	ITEM	ACTION	PAGE
18	1	Approved	93
	2	Approved	101
19	3	Approved	102
	4	Approved	103
20	5	Approved	104
	6	Withdrawn	104
21	7	Approved	118
22			
23	CERTIFICATE OF REPORTER		119
24			
25			

1 GOVERNOR SCOTT: All right. The next agenda is
2 the Department of Revenue, presented by Lisa
3 Vickers. Good morning.

4 MS. VICKERS: Good morning. Item 1 on our
5 agenda is to request approval of the minutes from
6 the June 16th meeting.

7 GOVERNOR SCOTT: Is there a motion to approve
8 Item 1?

9 COMMISSIONER PUTNAM: Governor?

10 GOVERNOR SCOTT: Yes, sir.

11 COMMISSIONER PUTNAM: I only make note of this
12 because it affects the director. Page 60, line 22
13 says that I said she's putting her agency in an
14 unfair position. I said we're putting your agency.
15 So that should read, so I think we're putting --
16 probably putting your agency in an unfair position.
17 So I move to approve with the one change.

18 GOVERNOR SCOTT: Is there a second on the
19 commissioner's --

20 CFO ATWATER: Second.

21 GOVERNOR SCOTT: Moved and seconded. Item 1 is
22 approved without objection, based on the motion by
23 the commissioner.

24 MS. VICKERS: Thank you. Item 2, we're
25 requesting approval to adopt amendments to a

1 property tax rule, Rule 12D-9.019(7)(b), in response
2 to an objection filed by the Joint Administrative
3 Procedures Committee of the Legislature. The
4 current rule was adopted in March of 2010 to address
5 rescheduling of Value Adjustment Board hearings when
6 there is a delay. The rule in part reads, in no
7 event shall a petitioner be required to wait more
8 than a reasonable time from the scheduled time to be
9 heard.

10 The Joint Administrative Procedures Committee
11 found that this portion of the rule modifies or
12 contravenes the statute by failing to include a
13 four-hour limitation. The statute in question reads
14 as follows. It's 194.032(2). No petitioner shall
15 be required to wait for more than four hours from
16 the scheduled time, and if his or her petition is
17 not heard in that time, the petitioner may at his or
18 her option report to the chairperson of the meeting
19 that he or she intends to leave. And if he or she
20 is not heard immediately, the petitioner's
21 administrative remedies will be deemed to be
22 exhausted and he or she may seek further relief as
23 he or she deems appropriate.

24 The Department believed that the language in
25 the statute had been overturned by a 1974 amendment,

1 Section 194.032(3) that provided that an aggrieved
2 party could go directly to circuit court and no
3 longer needed to exhaust their administrative
4 remedies. That position was upheld by the Third DCA
5 in a 1982 opinion of *St. Joe Paper Corporation v.*
6 *Miami Dade.*

7 Two other statutes were passed in 2000 which
8 sort of further confused the issue. In 2000 the
9 Legislature enacted the taxpayer bill of rights as
10 related to property tax. And in doing so, they
11 enacted a provision in 192.015(d) which provides in
12 part -- well, I guess let's talk about (f) first,
13 (f), which provides in part, the right in Value
14 Adjustment Board proceedings to have all evidence
15 presented and considered at a public hearing at the
16 scheduled time, which seems pretty clear.

17 They also in that same legislation in (d)
18 restated the language that had occurred in that
19 earlier statute that we believed had been
20 overturned. And that provision reads, the right to
21 prior notice of the Value Adjustment Board's hearing
22 date and the right to the hearing within four hours
23 of the scheduled time.

24 The Joint Administrative Procedures Committee
25 felt that by failing to include the four-hour

1 provision, that the Department had eliminated an
2 important protection for taxpayers, meaning that
3 because we only required that it be a reasonable
4 time, a reasonable time might be interpreted to be
5 longer than four hours, could be six hours or seven
6 hours, and that the four-hour provision could be
7 read independently of the requirement to exhaust
8 administrative remedies, so that that portion of the
9 statute had not been overturned.

10 The Joint Administrative Procedures Committee
11 directed the Department to reference the four-hour
12 rule in any amendment to its rule to correct this
13 issue.

14 We've spoken to a lot of individuals over the
15 years. When we first created this rule, the issue
16 of what the four-hour provision meant was in
17 controversy. And it was very clear that citizens
18 and those who represented taxpayers in Value
19 Adjustment Board hearings felt that this was an
20 important issue.

21 And I think most of us can agree that asking
22 someone to wait up to four hours from their
23 scheduled time is pretty onerous and not really
24 acceptable. It drives up the cost to taxpayers
25 through lost productivity. If they've hired a tax

1 rep who is charging on an hourly basis, sometimes
2 the fees that they have to pay to challenge their
3 assessment in the Value Adjustment Board process can
4 actually exceed the amount of the savings they were
5 trying to achieve by getting the adjustment
6 corrected.

7 But clearly, based on the Joint Administrative
8 Procedure Committee's direction to the Department,
9 we believe that we have to amend the statute because
10 they have interpreted this section as remaining but
11 that we should return to the Legislature to try and
12 get this fixed through legislation.

13 As I mentioned in our May 3rd meeting, you have
14 two options. You can adopt the amendments to the
15 rule, which is our recommendation, since I think
16 their -- their direction is pretty clear that they
17 feel that this at least creates that limitation of
18 four hours to the definition of reasonable, or you
19 could reject the Joint Administrative Procedures
20 Committee's objection, in which case they would file
21 notice with the Department of State, and they may
22 request the Department temporarily suspend its rules
23 while they would presumably get legislation to
24 direct us to take this action.

25 If you have any questions about the Joint

1 Administrative Procedures Committee, John Rosner,
2 who is staff from that committee, is here and could
3 answer questions about that process. And we have a
4 citizen, Sheila Anderson, who is a tax
5 representative, who may wish to speak to talk about
6 the impact of the four-hour provision on citizens.

7 Clearly, the concern is that by having a time
8 in there, some clerks may interpret that as cover or
9 authority to make people wait up to four hours, you
10 know, before saying that they have the right to be
11 rescheduled.

12 CFO ATWATER: Governor --

13 GOVERNOR SCOTT: Absolutely.

14 CFO ATWATER: Just for information, do you know
15 if -- and maybe somebody else would know.

16 Personally, I think four hours is atrocious. And we
17 are the government. We're the one who has placed
18 the tax. And if we can't set a schedule and hire
19 the resources to be able to, during that intense
20 period of time, be prepared to take care of a
21 citizen's request to petition their government for
22 change to what they believe is unfair -- and I know
23 this isn't your statement, but that just seems
24 ridiculous to me. I'm curious why the Legislature
25 didn't say 30 minutes or whatever the petitioner

1 brought before us they get.

2 MS. VICKERS: Well, the history on this is
3 really kind of interesting. I try not to bore you
4 with history, but I love history. Back in 1969,
5 because there was such a demand in front of the
6 adjustment process, that's back when you had all
7 this pressure in the state to try and get values to
8 a hundred percent just value, because there had been
9 a very poor process in the past, and the State moved
10 away from a board of equalization to this new
11 adjustment process. And so there was a heavy demand
12 for hearings.

13 And sometimes in large metropolitan areas
14 petitioners were waiting days to get their hearing.
15 So the Legislature came in and they passed a statute
16 that said, if your petition was not heard within two
17 hours, you automatically won.

18 Well, that didn't really work very well because
19 then they were having to grant a lot of adjustments
20 that maybe were not justified because of the delays
21 in the hearing. So the Legislature came back in
22 1970 and created this four-hour provision. But if
23 you carefully look at the language, you know, it
24 talks about going to the chairperson and alerting
25 them that you want to be heard immediately.

1 I think the four-hour provision was really
2 looking at the situation where petitions were heard
3 in front of a Value Adjustment Board, similar to
4 like a hearing before the Governor and Cabinet, and
5 so the schedule was a four-hour block. The board is
6 going to meet from 8:00 in the morning until noon
7 and your petition is going to be heard during that
8 time period, or similar to a committee meeting in
9 the Legislature. The scheduled time is 8:00 to
10 10:00 and that bill is going to be heard during that
11 meeting.

12 With the use of special magistrates, you have
13 hearings being held in front of an individual, and
14 you really can create a schedule that says your
15 hearing is going to be at 9:00, your hearing is
16 going to be at 9:15, yours is at 9:30. And so I
17 think this language is really very outdated in that
18 it was addressing sort of a different way of holding
19 these hearings.

20 On the clerk's side, what they will say is, you
21 know, they never know exactly whether everybody is
22 going to show up to their hearings or not, and so
23 they overbook these time periods. But the result
24 is, is that if a lot of people show up, some people
25 are being required to wait lengthy periods of time.

1 I think some clerks are probably better -- you
2 know, if somebody steps forward and says, "I need to
3 get back to work," or, "I can't wait," in allowing a
4 rescheduling. Other clerks I think probably do look
5 at the time and say, you know, "You haven't waited
6 four hours," which is really pretty egregious.

7 The impact on taxpayers is definitely
8 significant. I know that any one of us who has to
9 go to a doctor's appointment or anything and you're
10 required to wait, that's productivity and that's
11 time. And for people who are there to try and
12 achieve some minor adjustment to their value and
13 they're taking time off from work to do that, it
14 seems like we should be able to provide a better
15 process for them.

16 CFO ATWATER: And it seems as if the
17 Legislature, through JAPC, is saying back, don't
18 take that out because citizens at the minimum
19 deserve to be heard within four hours. Is that
20 correct?

21 MS. VICKERS: Right. We have gone to the
22 Legislature for two years. There was a bill filed
23 in 2010 that never made it out of committee to just
24 remove this obsolete language. It didn't go
25 anywhere. And then last year we went -- or this

1 year, 2011, we went to the Legislature again, and a
2 bill was filed in the Senate. And we asked to just
3 remove the language, and instead the sponsor wanted
4 to at least keep some time limitation in there and
5 kept "not to exceed four hours."

6 I think four hours seems like a pretty long
7 amount of time to make somebody wait for a hearing
8 that's scheduled at a particular time. So I think
9 they would want to look at that in particular.

10 I do agree that our rule, according to JAPC
11 looking at our rule, that just says within a
12 reasonable time could be interpreted to mean more
13 than four hours. And that was certainly not our
14 intention. We were really thinking in terms of a
15 shorter amount of time. But it could be read that
16 way. And so we feel like at least putting this in
17 the rule, as JAPC is directing us to do, creates at
18 least that protection, until we can fix this
19 legislatively.

20 ATTORNEY GENERAL BONDI: So is -- I'm sorry,
21 Governor. I as well read the legislative -- the
22 history, back in the sixties. So you can see where
23 the four hours came from and why, but I also see the
24 tremendous problem with it now. When these hearings
25 are scheduled, they're obviously not like criminal

1 cases where you have dockets of hundreds of people.
2 How many are set each day approximately? Do you
3 know?

4 MS. VICKERS: It depends on the county. It is
5 very similar to the cattle calls you see sometimes.
6 That's sort of the way they refer to them, where you
7 can have hundreds scheduled in the morning. Most
8 clerks look at it and try and figure out, based on
9 past history, how many petitioners typically don't
10 show up. And so they try to figure out what the
11 schedule should look like based on the typical
12 number of petitioners that will attend their
13 hearings. And sometimes they probably get it better
14 and sometimes not.

15 Many clerks still do the block scheduling,
16 which is similar to -- sometimes when you go to a
17 court hearing and you show up at 9:00 and you look
18 around and there are a lot of other people, well,
19 they all have 9:00 hearings. They schedule that
20 way. They'll schedule everybody for 9:00, knowing
21 that everybody can't be heard at 9:00, and then
22 people sit and they wait.

23 ATTORNEY GENERAL BONDI: And that's frustrating
24 when people do have jobs and they come in at 9:00
25 and have to sit there all day. That's so

1 frustrating.

2 MS. VICKERS: What's interesting is that in
3 counties like Miami-Dade, which by far have more
4 petitions filed than anyplace else -- I mean,
5 there's in excess of 80,000 petitions filed in a VAB
6 season. They have continuous hearings all year
7 long. They never stop. They don't have a VAB
8 season that just lasts a couple of weeks or a couple
9 of months, so they have them all year long.

10 They actually can do a better job of scheduling
11 because they know that it's going to continue on,
12 and so they try to schedule realistically. And if
13 somebody has a conflict or it's delayed, you know,
14 they can just go ahead and reschedule them for
15 another time.

16 In a smaller county, where maybe they've paid
17 for a special magistrate for a month, they're going
18 to have him there for a month to hear petitions, if
19 someone wants to be rescheduled and they want the
20 25-day notice that's in the statute for noticing a
21 scheduled hearing, now suddenly, if they're towards
22 the end of the month, they're going to have to call
23 a special magistrate back in to schedule that
24 hearing.

25 So I think they tend to really try to compress

1 everybody into that time frame and keep them there
2 to get them through and not try to reschedule. You
3 know, while that might be efficient and convenient
4 on the government's side, it certainly has an
5 adverse impact to the taxpayer.

6 ATTORNEY GENERAL BONDI: What is your best
7 recommendation to us right now for, you said a
8 temporary fix?

9 MS. VICKERS: My recommendation is that we
10 adopt the language as directed by the Joint
11 Administrative Procedures Committee, because to not
12 have a rule at all just leaves the statute there as
13 guidance. Our rule at least says that it needs to
14 be reasonable, so I would assume that if a clerk is
15 doing their job, they understand that it is supposed
16 to be less than four hours. If 30 minutes is
17 unreasonable, it shouldn't be any more than 30
18 minutes. If, you know, an hour is unreasonable, it
19 shouldn't be more than an hour.

20 I understand that some clerks may see this as
21 giving authority to go up to four hours. I think we
22 can address that by trying to provide some bulletins
23 and information to clerks about how they should be
24 interpreting this provision. There will probably
25 still be abuses. I don't doubt that. I think we

1 need to go to the Legislature, and we can bring back
2 a legislative concept to you in September with our
3 package.

4 I would like to discuss the issue more and
5 involve some of the parties that have raised
6 concerns to what they think would be an adequate fix
7 for this problem.

8 GOVERNOR SCOTT: Is there an option to just say
9 two hours?

10 MS. VICKERS: The Legislature can say anything
11 they want.

12 GOVERNOR SCOTT: But you can't in a rule.

13 MS. VICKERS: I can't -- the Joint
14 Administrative Procedures Committee would not --
15 they would have another objection to two hours
16 because the statute says four, so it would
17 contravene the statute.

18 GOVERNOR SCOTT: All right. Did Sheila
19 Anderson -- good morning.

20 MS. ANDERSON: Thank you, Governor. I've come
21 for doughnuts, but I didn't see them when I came in
22 the room. I have represented a taxpayer who has
23 property from Key West to Pensacola, and I have gone
24 through hearings in many jurisdictions. What I
25 haven't heard this morning that I think is very

1 relevant is who thinks what is reasonable, and
2 reasonable should be what the taxpayer finds
3 reasonable, since it's their protection against
4 overtaxation and it's their cost to not only service
5 the Value Adjustment Board and pay for the Value
6 Adjustment Board, which is critical to having lawful
7 taxation, but also they're paying for the cost of
8 going to the hearings and perhaps paying someone to
9 help them.

10 What I think would be helpful would be that you
11 strongly recommend to the Legislature that the
12 four-hour language is repealed and that reliance is
13 placed on the language that said at the -- at the
14 scheduled time, which was intended to clarify the
15 muddy history on the four-hour basis. And "at the
16 scheduled time" is handled very well by counties
17 with large volumes of petitions, and there shouldn't
18 be any problem in the smaller venues.

19 "Reasonable" changes, in my circumstances,
20 depending upon where the hearings are located, time
21 of day, weather conditions, what else is going on on
22 my schedule. I might have to be in two counties at
23 the same day and/or other things may come up.
24 Someone in front of me at a hearing sometimes that
25 is properly managed may have a longer presentation

1 involved or has filed a petition asking for longer
2 time and the clerk has not complied with that.

3 But in no case should a petitioner or a
4 taxpayer be subject to the discretion of a clerk,
5 because the question becomes who's working for whom.
6 And that's the biggest part of the problem. "At the
7 scheduled time" works, and you have that law, and it
8 was intended to make clear what the scheduling ought
9 to be.

10 And as Lisa has said, Miami does it very well
11 and keeps the schedule going all day long, all year
12 long, with multiple hearing rooms set up. And you
13 can have your hearing heard earlier if a magistrate
14 has gone through the schedules sooner than expected.
15 It may take a little longer on occasion, but I think
16 everybody understands, if someone isn't finished, to
17 let them conclude their hearing without imposing
18 restrictions on the process.

19 So "at the scheduled time" works. And if you
20 could send a message to the Legislature and get the
21 Joint Administrative Procedures Committee to sponsor
22 a committee bill that says repeal the four-hour
23 language, you solve the problem, at no cost to
24 government but you will be saving taxpayers a great
25 deal. Thank you.

1 GOVERNOR SCOTT: Thank you very much.

2 MS. ANDERSON: And I'll take a doughnut.

3 GOVERNOR SCOTT: Thank you.

4 MS. VICKERS: So our recommendation is that you
5 approve this amendment. And we would return with
6 our legislative package to raise this issue with the
7 Legislature to try and correct it.

8 CFO ATWATER: Governor, might I just maybe make
9 that motion, with the request that the Department
10 does provide us with -- so that we could look at
11 that recommendation as Ms. Anderson has suggested,
12 highly endorse that to the Legislature for this
13 session. I make the motion.

14 GOVERNOR SCOTT: Commissioner?

15 COMMISSIONER PUTNAM: I'm all for your
16 recommendation. Part of me feels like we're gagging
17 on a gnat a little bit here. I mean, most of these
18 clerks are elected. I don't tell the sheriffs how
19 to run their office. I won't tell the clerks how to
20 run their operation. And JAPC can't, or at least
21 when we were there, couldn't propose legislation.
22 They didn't have that authority.

23 If you said only at the scheduled time and
24 you've got a great clerk who runs a great operation
25 and the person at 9:00 doesn't show up but you're at

1 9:15, they can't take you at 9:00 because it says
2 only at the scheduled time.

3 I mean, we're trying to legislate from the
4 Cabinet. I just think that's a -- I think it's a
5 bad idea. I think we should accept Lisa's
6 recommendation and encourage that this be in her
7 legislative package and let the Legislature resolve
8 this.

9 MS. VICKERS: You know, I have not found that
10 taxpayers and people who are tax reps, in discussing
11 these issues, have been unreasonable in trying to
12 make sure that it's not so rigid that if somebody is
13 running late, it can't be a few minutes late. I
14 think it's the overall -- you know, to say four
15 hours gives the perception that it's okay to make
16 somebody wait an extraordinary length of time.

17 So we would be careful in the recommendation
18 that we come back with, that it's not so strict as
19 to drive the cost up of the hearing process but to
20 try and accommodate that.

21 GOVERNOR SCOTT: I think the motion was the
22 CFO's motion, which would ask them to come -- do you
23 want to state yours again, or do you want to change
24 it?

25 CFO ATWATER: Thank you, Governor. I just

1 would make the motion that we accept the rule as
2 presented and in further discussion that they would
3 come back to us. It was not meant to be part of the
4 motion, but that my hope is that they would create
5 their agenda.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Moved and seconded. Show it
9 approved without objection. Thank you very much.

10 MS. VICKERS: Thank you.

11 ATTORNEY GENERAL BONDI: Thank you.

12 GOVERNOR SCOTT: Thank you, Ms. Anderson.

13 Thanks for coming.
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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:

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
ADMINISTRATION COMMISSION
FLORIDA LAND AND WATER ADJUDICATORY COMMISSION
DIVISION OF BOND FINANCE
FINANCIAL SERVICES COMMISSION, FINANCIAL REGULATION
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION
DEPARTMENT OF REVENUE
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

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, September 20,
2011, commencing at approximately 9:09 a.m.

Reported by:

MARY ALLEN NEEL
Registered Professional Reporter
Florida Professional Reporter
Notary Public

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RICK SCOTT
Governor

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

ADAM PUTNAM
Commissioner of Agriculture

* * *

I N D E XBOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
(Presented by HERSCHEL VINYARD)

ITEM	ACTION	PAGE
1	Approved	9

ADMINISTRATION COMMISSION
(Presented by PHILLIP MILLER)

ITEM	ACTION	PAGE
1	Approved	12

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION
(Presented by PHILLIP MILLER)

ITEM	ACTION	PAGE
1	Approved	13

DIVISION OF BOND FINANCE
(Presented by BEN WATKINS)

ITEM	ACTION	PAGE
1	Approved	14
2	Approved in Part	18
	Withdrawn in Part	
3	Approved	20
4	Approved	20
5	Approved	21
6	Approved	21
7	Approved	22
8	Approved	24

FINANCIAL SERVICES COMMISSION, FINANCIAL REGULATION
(Presented by TOM GRADY)

ITEM	ACTION	PAGE
1	Approved	28
2	Approved	30

INDEX CONTINUEDFINANCIAL SERVICES COMMISSION, INSURANCE REGULATION
(Presented by KEVIN McCARTY)

ITEM	ACTION	PAGE
1	Approved	31
2	Approved	32
3	Approved	33
4	Approved	33
5	Withdrawn	34

DEPARTMENT OF REVENUE
(Presented by LISA VICKERS)

ITEM	ACTION	PAGE
1	Approved	47
2	Approved	51
3	Approved	56
4	Approved	57
5	Approved	58

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
(Presented by JULIE JONES)

ITEM	ACTION	PAGE
1	Approved	59
2	Approved	63
3	Approved	68

CERTIFICATE OF REPORTER		70
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1 GOVERNOR SCOTT: Okay. The next agenda is the
2 Department of Revenue presented by Lisa Vickers.
3 Good morning.

4 MS. VICKERS: Good morning. Item 1 requests
5 approval of the Department's Annual Performance
6 Contract, our Long Range Program Plan, and our
7 Capital Improvement Plan. I usually like to group
8 these three items together because I think they
9 provide a good overview of the Department's
10 performance, the standards that are set for the
11 next year, the strategies that we are putting in
12 place to achieve those performance goals, and how
13 we are handling our leased facilities.

14 In child support enforcement, the Department
15 achieved a 5 percent increase in collections
16 compared to previous years. That is a .2 percent
17 increase among -- compared to a .2 percent increase
18 among the eight largest states and a .7 percent
19 increase across all states. This is important
20 because the Department earns incentive dollars from
21 the federal government based on our performance as
22 compared to other states. And over the last four
23 years, we have increased our incentive earnings by
24 \$5 million.

25 The program has also increased order

1 establishment -- this is an essential step in child
2 support collection -- by over 17 percent this year
3 and by over 49 percent over the past two years.

4 In general tax administration, the Department
5 had a record-setting year with audit collections of
6 323 million, while reducing accounts receivable to
7 1.4 percent. This compares to an industry standard
8 of 2 percent.

9 In property tax oversight, property appraisers
10 achieved a 99.6 percent statewide average level of
11 assessment under the Department's oversight. This
12 results in greater uniformity across property types
13 and is an increase from approximately 96 to
14 97 percent over the past three years.

15 In child support enforcement, we met three out
16 of our four approved standards, which are found on
17 page 5 of the performance contract. The standard
18 that we did not meet in child support was percent
19 of current support collected. And although we
20 increased current support collected by a full
21 percent, this measure was affected by the continued
22 unemployment in the state and the Deepwater Horizon
23 oil spill.

24 IDOs, income deduction orders are the best way
25 or best means of collecting child support on income

1 from jobs. When unemployment went up, we began to
2 put IDOs in place for unemployment compensation
3 payments. And while we still continued to receive
4 collections, they were at a reduced amount.

5 The program has tried to mitigate this by
6 sending notices to employers to ensure that they're
7 complying with new hire requirements as people do
8 become employed.

9 In general tax administration, the Department
10 did not meet its approved standards for the fiscal
11 year. I always tell our employees in the
12 Department that measures are great, but measures
13 tell a story, and you have to understand the story
14 behind those measures to understand what is going
15 on with your performance.

16 In general tax administration, for example, we
17 did miss our standard of 99 percent in percent of
18 tax returns reconciled within 30 days. This is a
19 standard that we routinely meet. We made a
20 decision early in the year to hold processing of
21 unemployment tax returns because the Legislature
22 had pending legislation that was going to affect
23 the rates that taxpayers would be obligated to pay.
24 And rather than processing those returns twice if
25 the law changed, we held them up so that we didn't

1 expend resources in processing until we knew the
2 outcome of the session. So we did not meet that
3 measure. We came in at 97.9 percent.

4 We're also changing that measure slightly and
5 have had approved by the Legislature to go to 25
6 days. We think that we will be able to meet that
7 measure in future years unless again we make
8 management decisions to hold up returns.

9 This is an area that you wouldn't want to
10 expend a lot more resources trying to improve on
11 this measure. I mean, we are at a really high
12 rate. We're processing returns in a very
13 reasonable amount of time. In order to achieve
14 100 percent or, you know, a higher rate than what
15 we're achieving, you would be expending resources
16 to go after speeding up a very small percentage of
17 returns that have to be handled separately because
18 they have issues that we discuss with taxpayers.

19 In the percent of educational
20 information/assistance rendered meeting or
21 exceeding taxpayer expectations, here we are at an
22 88 percent level. The approved standard was
23 96 percent. But we had a change in the way we
24 handled surveying taxpayers. In the past we would
25 call taxpayers and ask them if they were satisfied

1 with our -- if they were satisfied with the
2 information and assistance that we provided to
3 them. So we were calling a random selection of
4 taxpayers, and our response was really high.

5 When we moved out to our new facility and
6 changed our phone system, we went to an automated
7 system where a taxpayer can choose to enter into a
8 survey. They're not contacted by us. And as would
9 be expected, a lot of times the taxpayers that
10 choose to do the surveys are ones that are not
11 happy with the performance as opposed to just a
12 random sampling. So we will be looking to change
13 that measure slightly to be more reflective of that
14 new procedure that we have in place.

15 The percent of tax compliance examinations
16 resulting in an adjustment to a taxpayer's account,
17 there we increased performance from 57 percent last
18 year to 61 percent this year, but again, below the
19 approved standard of 65 percent. That is an area
20 that I'm very focused on because there has been a
21 lot of indication that the Legislature should
22 provide more auditors to the Department.

23 We always tell people you can do more with
24 more, but this is an area where if we can make sure
25 that our auditors are focusing on the taxpayers

1 that are most likely to have noncompliance, you can
2 increase your performance. You can increase your
3 return from that resource without having to
4 increase the number of human resources.

5 It's really a capacity area, where it's
6 underutilized capacity when you send an auditor in
7 to a taxpayer for an audit that is not as likely to
8 produce an examination that's going to show an
9 assessment. We do that through, you're going to
10 hear later in our strategies, focusing on third
11 party data that tells us where the right places are
12 to focus our efforts.

13 And then finally, percent of collection cases
14 resolved in less than 90 days, there the standard
15 -- we're up from last year of 60 percent to 60.3
16 percent. But the approved standard is 66 percent,
17 so we continue to focus on that area as well. As
18 we bring our accounts receivable down, it is more
19 likely that the cases that we have in our inventory
20 are the harder to collect cases, and so you're not
21 going to see that measure probably increase much
22 beyond there.

23 We have had some discussions with the CFO
24 regarding our performance measures, and we hope
25 that over the course of the next six months we can

1 come to you and show you some measures that you
2 might want to incorporate into the Performance
3 Contract next year. It's always nice to be able to
4 focus on these individual business processes and
5 areas, but I don't think that you get a view of
6 more global measures that tell you the overall
7 performance of the agency. So we're working on
8 some measures that I think will give you a better
9 insight into how the agency is performing overall
10 in terms of leveraging our resources to bring you
11 the best performance results.

12 The Long Range Program Plan details the
13 Department's plan to implement a number of
14 strategies to reduce costs and improve performance.
15 Over the past several years, the Department has
16 reduced our leased space footprint by approximately
17 10 percent by consolidation of our Tallahassee
18 offices and service centers and restacking our
19 staff. It has also reduced our overall processing
20 and printing costs by approximately 32 percent.

21 The key strategies that we're focusing on that
22 you can find in the Long Range Program Plan, in
23 child support enforcement, the biggest strategy
24 there is the full implementation of the CAMS
25 system, the Child Support Automated Management

1 System. This will allow us to automate routine
2 tasks and free up staff time for more complex
3 tasks.

4 Our full usage of the FLORIDA system was
5 costing us approximately \$22 million a year. Next
6 year while we're running both system simultaneously
7 for a little bit longer as we're moving information
8 over, it will be about \$19 million. And when CAMS
9 is fully operational, our cost of our technology in
10 that area will come down to \$14 million. So we'll
11 go from \$22 million in technology costs down to
12 \$14 million in technology costs.

13 You heard me mention earlier that increasing
14 the number of new support orders is an important
15 area. And while we've increased our performance
16 there by 49 percent, it's important to understand
17 that in order for us to collect child support, the
18 ultimate purpose of our child support enforcement
19 program, we have to get those support orders
20 through the judicial process and with some
21 supplemented through the administrative process.

22 If we can't increase our capacity in that
23 process, we'll never be able to perform well at the
24 end of that string of business processes, which is
25 the collection of child support. So we have a

1 number of strategies with the implementation of
2 CAMS to try and increase the new support order
3 establishment.

4 Just to kind of give you a mind-numbing figure
5 or mind-boggling figure, we produced 58,000 new
6 orders last year. That was up 49 percent from two
7 years past. We get about 120,000 new cases a year
8 that need new support orders, so we have to
9 dramatically increase that support order
10 establishment number to keep driving up that
11 performance of collections. But we will use,
12 again, CAMS to reassign staff. We're going to
13 increase docket capacity by working with our
14 partners to add temporary hearing officers in the
15 judicial circuits.

16 We're going to rework our business process and
17 our work flow to ensure that we are sending the
18 very best cases through that very limited resource
19 of the judicial process. We want to minimize the
20 number of cases that we send through that process
21 that ultimately get dismissed without an order,
22 because, again, that's lost capacity through that
23 system.

24 The key strategies in the general tax program
25 will focus on improving performance and reducing

1 costs, again, there the use of third party data so
2 that we better improve the effectiveness of
3 identifying the possible businesses that are not
4 meeting tax obligations, increasing our performance
5 by using more automated tools. We're implementing
6 a collection analytic system that will allow our
7 collectors, our collection resources to be used in
8 the most effective way.

9 We also have as part of our strategy the
10 one-stop registration system that we've been
11 talking about. I actually have a meeting in the
12 House today and in the Senate tomorrow to talk
13 about our efforts to take agencies that deal with
14 businesses and create a one-stop registration
15 portal, Governor, that you have championed in order
16 to make sure that businesses are able to get into
17 our state, take care of any registration
18 requirements as quickly as possible, and get jobs
19 in place as quickly as possible. One of the other
20 side effects of that is that we will be able to
21 improve compliance among businesses by making sure
22 that they're meeting all requirements of the
23 different agencies.

24 In the property tax oversight program, our
25 focus is to improve performance and reduce costs

1 there. We're using better technology and
2 information in order to increase performance there.

3 In our Capital Improvement Plan, as I
4 mentioned earlier, we are greatly reducing our
5 leased footprint through restacking and combining
6 facilities, and we've projected reduced lease costs
7 of 4.5 million. And over the past five years,
8 we've been able to absorb 6.7 million in increased
9 lease costs.

10 With that, I respectfully request that you
11 approve this item.

12 GOVERNOR SCOTT: Very impressive. Is there a
13 motion to approve Item 1?

14 COMMISSIONER PUTNAM: Governor, in addition to
15 approving the program plans, it also approves the
16 performance contract with Lisa, correct,
17 essentially rehiring Lisa?

18 GOVERNOR SCOTT: Yes.

19 COMMISSIONER PUTNAM: I will gladly move the
20 issue and thank you for your service and
21 professionalism that you bring to this agency and
22 to this Cabinet. It's almost an impossible task
23 running the Department of Revenue in terms of all
24 the moving parts, but I think you do it very well,
25 and we appreciate it.

1 MS. VICKERS: It is absolutely a pleasure.
2 Not too many people would probably say that, but I
3 enjoy every moment of it.

4 ATTORNEY GENERAL BONDI: We're thrilled to
5 have you.

6 GOVERNOR SCOTT: I think everybody would say
7 the same thing. Lisa, you do a great job. You've
8 got a great attitude about it. You've got a big
9 job, and you do it with no complaints, with a very
10 positive attitude, and you get great results, so
11 we're very appreciative.

12 MS. VICKERS: Thank you.

13 GOVERNOR SCOTT: All right. Is there a
14 second?

15 CFO ATWATER: Second.

16 GOVERNOR SCOTT: Okay. Moved and seconded.
17 Item 1 is approved without objection.

18 MS. VICKERS: Item 2 is the Department's
19 legislative budget request. This request
20 represents an 8.6 percent reduction over our
21 current year total appropriation. You need to kind
22 of understand that number a little bit. We start
23 out our appropriation always with a difference
24 between what ultimately will be appropriated,
25 because the Legislature will put about \$25 million

1 more into our budget when we're through the process
2 as a result of funding for fiscally constrained
3 counties, so that amount incorporates the fact that
4 later they'll put in about 25 million additional
5 for fiscally constrained counties.

6 The real reduction there, though, I think is
7 based on the fact that we are coming in on time and
8 on budget with our CAMS system and our
9 implementation early next spring, which will be in
10 this budget year. And so there's a 29 million
11 reduction in nonrecurring funding for the
12 development of CAMS as we bring that project in on
13 time.

14 The operating budget itself represents about a
15 1.59 percent increase in total recurring funding,
16 and that's really kind of an accounting shift. The
17 Legislature funded about 52 of our positions last
18 year with nonrecurring dollars with the
19 understanding that we would come back and ask for
20 recurring funding this year, so that's that shift
21 between nonrecurring and recurring. If they're not
22 funded, then we will be deleting additional
23 positions for those 52 because they won't be
24 funded. Over the past five years, we have reduced
25 the number of FTEs in the Department by 400

1 positions.

2 One of the large issues in this budget is
3 related to a \$1.6 million decision to fund the
4 \$25 fee that the federal government requires for
5 child support collection cases that have obtained
6 over \$500 collection in a year. A few years back
7 when the federal government implemented this fee on
8 our customers, the Legislature decided to pay that
9 fee through government money. And so when we have
10 cases that are collecting more than \$500 a year,
11 the Legislature gives us general revenue funding to
12 pay that \$25 fee. Well, because of our increased
13 performance, we have more cases that are meeting
14 that \$500 threshold, which is increasing our need
15 for additional general revenue to pay that fee.

16 As part of our cost reduction strategies that
17 we're taking to the Legislature this year, we want
18 to ask them the question of whether they want to
19 continue to pay that fee on behalf of our customers
20 that are using our services. In other states, the
21 actual individual who is receiving the child
22 support collections pays that \$25 fee when they
23 meet those threshold amounts.

24 There are a number of small technology issues
25 in this legislative budget request. Included in

1 there are provisions for -- to continue with the
2 enterprise decisions to implement the data center
3 consolidation of about \$850,000 and statewide email
4 of 166,000.

5 We request approval of the legislative budget
6 request.

7 GOVERNOR SCOTT: All right. Commissioner.

8 COMMISSIONER PUTNAM: I would just point out
9 as part of my continuing public awareness campaign
10 that statewide email consolidation is also costing
11 you more money in addition to all three Cabinet
12 agencies up here; is that correct?

13 MS. VICKERS: We are a very large agency. We
14 have very high efficiencies in the area of
15 technology because of our size. The email
16 consolidation has increased costs slightly for our
17 agency. We're a little different than everybody
18 else in that we have been on Novell, a very
19 different product. We were going to need to
20 transfer to Microsoft eventually anyway, because it
21 creates a lot of problems in terms of interfacing
22 with other agencies and being able to communicate
23 confidentially with other agencies. So I don't
24 think the impact has been as great on us as it
25 might be on other agencies. But, yes, it does

1 increase the cost for us.

2 GOVERNOR SCOTT: All right. Is there a motion
3 on the Department's proposed legislative budget
4 request?

5 CFO ATWATER: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Moved and seconded. Any
9 objection?

10 In my case, Florida law requires the Governor
11 to independently submit budget proposals.
12 Accordingly, I'm abstaining from the vote on this
13 item. Therefore, the record should reflect this
14 item is approved with one abstention.

15 MS. VICKERS: Thank you.

16 Item 3 is the Department's legislative
17 concepts. They're largely a resubmission of the
18 concepts submitted last year. That's not really a
19 negative reflection on the concepts. Agency
20 administrative concepts sometimes don't pass in the
21 first year that they're proposed. I always liken
22 them to the tuneup on a car. They're not very
23 exciting. They're the oil change. They're the
24 tuneup. They're usually kind of dry, boring
25 administrative issues, and there's no lack of those

1 here.

2 In child support enforcement, a number of
3 concepts are being offered to improve the
4 administration and efficiency of that program. In
5 general tax, the Department is again proposing
6 concepts to improve our enforcement efforts.

7 New to this package, though, is a concept
8 focusing on software that allows businesses to
9 steal tax revenues. They've actually invented
10 software that you can put on cash registers to
11 create what we used to in the old days call two
12 sets of books and records so that you have one set
13 of records to show the state and another set of
14 records that tells you what your actual amount of
15 business is that's flowing through that cash
16 register.

17 We have a concept also to provide a reduce and
18 realign of unemployment tax interest rates to be
19 consistent with other taxes. Right now the tax
20 rate for employment tax is 12 percent. This will
21 move it to prime plus 4, which is the same as all
22 the other taxes, to make it more efficient for us
23 to administer that.

24 We're seeking guidance in calculating the
25 phosphate tax rate from the Legislature, and we

1 have provisions to conform the Clerk of Courts'
2 electronic remittance provisions.

3 In property tax oversight, provisions are
4 advanced to improve administration, clarify
5 statutory provisions, and correct statutory
6 references. Concepts are also included to reduce
7 the burden on taxpayers by providing better
8 administration of exemptions.

9 The package also includes a request that the
10 Legislature consider repealing the four-hour
11 requirement and making changes to provisions
12 discussed at the last Cabinet meeting to ensure
13 that taxpayers are able to reschedule VAB hearings
14 when delays occur in holding a hearing that would
15 create a hardship on the taxpayer.

16 I know that we have a citizen -- the same
17 citizen that showed up last time has arrived this
18 morning, and I'm not sure -- do you have a comment?
19 And she may want to comment on that provision.

20 GOVERNOR SCOTT: Okay. Do you want to do that
21 now, or do you want to do it . . .

22 Good morning, and thank you very much for
23 coming.

24 MS. ANDERSON: Good morning. Thank you very
25 much. My name is Sheila Anderson. I'm a private

1 citizen and taxpayer and a realtor, and I represent
2 other taxpayers who appeal their ad valorem
3 assessments.

4 This four-hour thing going back to the 1960s
5 has no relationship whatsoever to the current
6 composition of the Value Adjustment Boards or how
7 they operate for the majority of taxpayers, so to
8 repeal it is the obvious and urgent thing to do.
9 And I was very disappointed that you even let a
10 legislative staff member tell you that you ought to
11 retain anything in the statute, since this is so
12 overdue. So I thank you for that.

13 I would like to also add that as a private
14 citizen, there's no item on the agenda for public
15 comments on anything before you of interest to
16 citizens. And it would save a lot of travel around
17 the state, Governor, if you just simply provided
18 that opportunity for people on a regular basis.
19 And I understand your staff is against it, but I
20 don't work for your staff, and I think it would be
21 appropriate for anyone who is a citizen of the
22 state to speak to their elected representatives
23 when they have grievances.

24 The other thing that I noticed today is that
25 there are no copies of documents that were before

1 you as the various agencies were reporting to you,
2 and some of that was very interesting. I would
3 like to see how the bond refinancing works on paper
4 as well, because it might affect and give me some
5 ideas on how to manage the resources that I have.
6 And I'm sure other people would like to know more
7 about how public money is being managed. And it
8 sounded very well done, but there was a lot of
9 detail that was not available.

10 So again, public comments and public documents
11 would be very useful. And to get rid of the
12 four-hour rule would be -- would go a long way to
13 treating taxpayers to the process they're entitled
14 to have.

15 Thank you.

16 GOVERNOR SCOTT: Thank you very much. And one
17 thing you might get on is the -- if you stay around
18 this afternoon, there will be a lot of information
19 with regard to how our pension money is invested.

20 MS. ANDERSON: I appreciate that, but I've got
21 a long ride back to Ocala, and it's not possible.
22 But if it had been here, I would have had the time.

23 GOVERNOR SCOTT: Thank you.

24 MS. VICKERS: Thank you. And we would
25 respectfully request that you approve Item 3, our

1 legislative concepts.

2 COMMISSIONER PUTNAM: So moved.

3 GOVERNOR SCOTT: Second?

4 ATTORNEY GENERAL BONDI: Second.

5 GOVERNOR SCOTT: Moved and seconded. Item 3
6 is approved without objection.

7 MS. VICKERS: Item 4 requests approval to
8 publish and proceed with rulemaking in the
9 following areas: To implement legislative changes
10 in the area of documentary stamp tax, estate tax,
11 communications services tax, the Florida Tax Credit
12 Scholarship Program, and in the area of emergency
13 excise tax; to update -- to do an annual update of
14 our forms in the area of communications services
15 tax, fuel tax, corporate income tax, and insurance
16 premium tax, as well as miscellaneous forms for use
17 tax, solid waste, rental car surcharge, and
18 severance tax. It's the typical annual update that
19 we do to those forms.

20 The amendments will also provide
21 simplification and clarification in a number of
22 areas and remove obsolete provisions from the law
23 related to the Department's Fax on Demand system,
24 which has been replaced by the availability of
25 forms on our website, and the sunset of an

1 exemption on machinery and equipment that sunsetted
2 July 1, 2010, and the repeal of the emergency
3 excise tax that's effective on January 1, 2012.

4 We recommend approval of this item.

5 GOVERNOR SCOTT: All right. Is there a motion
6 to approve Item 4?

7 ATTORNEY GENERAL BONDI: Move to approve.

8 GOVERNOR SCOTT: Is there a second?

9 CFO ATWATER: Second.

10 GOVERNOR SCOTT: Moved and seconded. Item 4
11 is approved without objection.

12 MS. VICKERS: Thank you. And finally, Item 5
13 requests approval and authority to adopt Rule
14 12E-1.0051. This rule is related to child support
15 enforcement and undistributable collections. The
16 purpose of this rule is to provide a method that
17 the Department will use to attempt to locate
18 intended recipients that we are not able to locate
19 for child support distribution, if we're unable to
20 locate the intended recipient, how we will apply
21 those funds to the case. First we would apply the
22 funds if the noncustodial parent has another open
23 case through the Department, and then finally, to
24 return the funds back to the person who contributed
25 those funds if it's undistributable.

1 This rule was previously presented to you on
2 June 16th, and since that time, the Department has
3 worked with the CFO's office to add a link from the
4 Florida unclaimed property search page to the
5 Department's undistributable child support
6 collection search page.

7 And we request approval of this item.

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

10 CFO ATWATER: So moved.

11 GOVERNOR SCOTT: Second?

12 ATTORNEY GENERAL BONDI: Second.

13 GOVERNOR SCOTT: Moved and seconded. Item 5
14 is approved without objection.

15 MS. VICKERS: Thank you.

16 GOVERNOR SCOTT: Thank you very much.

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December 6, 2011

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Marc Slager, Deputy Chief of Staff/Cabinet Affairs Director
Rachel Goodson, Cabinet Aide

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

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General/General Counsel
Rob Johnson, Cabinet Affairs Director

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

FROM: French Brown, Deputy Director, Technical Assistance and Dispute Resolution

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 and approval to file and certify it with the Secretary of State under Chapter 120, F.S., the following proposed rules:

- Extend the Florida Estate Tax Exemption Period to December 31, 2012 – (*Rules 12C-3.0015 and 12C-3.008, F.A.C.*)

ATTACHMENT #2

- Communications Services Tax – Rounding Algorithm; Update Local Tax Rates; Amend Terminology; Certification of Databases (*Rules 12A-19.041 and 12A-19.100, F.A.C.*)
- Florida Tax Credit Scholarship Program – Eliminate the 75% Credit Limitation; Eliminate Restriction on Rescindment of the Credit; Extend the Carryforward of Unused Tax Credits to Five Years (*Rules 12-29.002 and 12-29.003, F.A.C.*)
- Fuel Tax Licenses – Update Annual Tax Rates (*Rule Chapter 12B-5, F.A.C.*)
- Registration Information Sharing and Exchange (RISE) Program – Clarification of Confidentiality Requirements of Employees Handling Confidential Tax Information (*Rule 12-22.007, F.A.C.*)
- Update Annual Tax Returns – Remove Obsolete or Unnecessary Provisions
 - Sales and Use Tax
 - Solid Waste Fees and Rental Car Surcharge
 - Severance Taxes
 - Insurance Premium Tax
 - Corporate Income Tax
 - Tax on Governmental Leasehold Estates(*Rules 12-3.0015, 12-6.0015, 12-16.003, 12-18.001, 12-18.004, 12-22.005, 12A-1.0142, 12A-1.097, 12A-1.107, 12A-16.008, 12B-7.008, 12B-7.026, 12B-8.001, 12B-8.0012, 12B-8.003, 12B-8.006, 12B-8.007, 12B-8.016, 12C-1.003, 12C-1.051, 12C-1.343, and 12C-2.0115, F.A.C.*)

Extend the Florida Estate Tax Exemption Period to December 31, 2012

Why are the proposed rules necessary? The proposed amendments are necessary to reflect the statutory exemption period applicable to the filing of a Florida Estate Tax Return. In 2011, the Legislature extended this exemption through 2012.

What do these proposed rules do? The proposed amendments provide that no Florida estate tax return is required to be filed for a decedent who dies, or has died, between January 1, 2005, and December 31, 2012, in accord with Section 1, Chapter 2011-86, L.O.F.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Communications Services Tax - Rounding Algorithm; Updates Local Tax Rates; Amend Terminology; Certification of Communications Services Address/Jurisdiction Databases

Why are the proposed rules necessary? One of the proposed amendments is necessary to update the method of rounding as provided by Chapter 2011-120, L.O.F., and to update the local tax

rates applicable to sales of communications services, effective January 1, 2012. Proposed amendments are necessary to amend the terms “resort condominium” and “remote dwelling” to “vacation rentals,” as provided by Chapter 2011-119, L.O.F. Finally, amendments are needed to clarify the requirements that communications services dealers must meet in order to qualify for a higher collection allowance.

What do these proposed rules do? The proposed amendments update the method of computing communications services tax to a traditional rounding method; update the local communications services tax rates that will be in effect on January 1, 2012; update terminology used in the rules for sales to residential households; and clarify that the place codes contained in an address database submitted by communications services providers must correlate before the database may be certified by the Department. Communications services providers are only eligible for a higher collection allowance if they use databases certified by the Department. The proposed amendments allow for resubmission of a previously unacceptable database to allow the dealer every opportunity to qualify for the higher collection allowance.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department’s request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Fuel Tax Licenses - Update Annual Tax Rates

Why are the proposed rules necessary? The proposed amendments are necessary to provide consistency between the rules and the Department’s forms for fuel and pollutant tax. Changes were previously made to these forms in response to requests made by the Joint Administrative Procedures Committee. The proposed rule amendments are also needed to provide the procedures for obtaining a refund on fuel taxes paid on diesel fuel provided by s. 206.8745(1), F.S. In addition, changes are necessary to include the annual updates to the state fuel sales tax rate and the local option fuel tax rates, effective January 1, 2012.

What do these proposed rules do? The proposed changes amend the rules to include statutory terms and bonding requirements to obtain a Florida fuel or pollutant tax license; provides how to obtain a refund of fuel tax paid on fuel used for commercial fishing purposes or by a vessel engaged in the commercial transportation of persons or property; and updates the fuel tax rates in effect on January 1, 2012.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department’s request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Florida Tax Credit Scholarship Program - Eliminate the 75% Credit Limitation; Eliminate Restriction on Rescindment of the Credit; Extend the Carryforward of Unused Tax Credits to Five Years

Why are the proposed rules necessary? The amendments are needed to reflect changes made to the Florida Tax Credit Scholarship Program, effective July 1, 2011, under Chapter 2011-123, L.O.F.

What does this proposed rule do? The proposed rule amendments incorporate the changes to the Florida Tax Credit Scholarship Program effective July 1, 2011.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Registration Information Sharing and Exchange (RISE) Program – Clarification of Confidentiality Requirements of Employees Handling Confidential Tax Information

Why is the proposed rule necessary? Section 213.0535, F.S., allows the Department to share tax information with local government agencies under the Registration Information Sharing and Exchange (RISE) Program. The proposed amendments are needed to clarify and update the rule provisions applicable to the Program.

What does this proposed rule do? The proposed rules amend the Registration Information Sharing and Exchange (RISE) Program agreements; clarify that each government employee with access to the tax information is required to annually certify an understanding of the requirements to maintain the confidentiality of that tax information; and provide a separate form for the annual certification.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Update Tax Returns – Remove Obsolete or Unnecessary Provisions

Why are the proposed rules necessary? The proposed amendments are necessary to remove obsolete provisions and to update and reorganize various rule provisions for ease of taxpayer use.

What do these proposed rules do? The proposed changes include the following:

- Removes the limitation of the use of the returns to a single calendar year for tax returns for sales and use tax, solid waste tax, rental car surcharge, and severance tax. Updates

insurance premium tax returns and corporate income tax returns to report tax imposed during 2011.

- Removes obsolete references to obtaining copies of forms using the discontinued Fax on Demand System.
- Updates the Power of Attorney and Declaration of Representative form to request an e-mail address at which the Department may contact the taxpayer's representative.
- Removes obsolete rule for sales tax exemption on equipment, machinery, and other materials used for renewable energy technologies. This exemption expired July 1, 2010.
- Updates and reorganizes form DR-1 and instructions to simplify the registration process for taxpayers.
- Removes provisions regarding emergency excise tax that will be repealed effective January 1, 2012, under Section 22, Chapter 2011-76, L.O.F.
- Updates definitions and provisions regarding interest and removes obsolete and unnecessary provisions from corporate income tax rules.

Were comments received from external parties? A rule development workshop was scheduled for August 16, 2011, on request. No request was received to hold the scheduled workshop. On September 20, 2011, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was held on October 26, 2011. No comments were received.

Attached are copies of:

- Summary of the proposed rule, which includes:
 - Statement of facts and circumstances justifying the rule;
 - Federal comparison statement; and
 - Summary of rule workshop
- Rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE
ESTATE TAX
AMENDING RULES 12C-3.0015 AND 12C-3.008

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-3.0015, F.A.C. (Documents, Extensions, and Due Dates for Filing), update the rule to provide when a Florida estate tax return is due for decedents who died prior to January 1, 2005, or on or after December 31, 2012.

The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), adopt, by reference, updates to Form DR-312 (Affidavit of No Florida Estate Tax Due), Form DR-313 (Affidavit of No Florida Estate Tax Due When Federal Return is Required), and Form F-706 (Florida Estate Tax Return for Residents, Nonresidents, and Nonresident Aliens) to reflect the extension of the exemption period from filing a Florida Estate Tax Return, as provided in Chapter 2011-86, L.O.F.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 1, Chapter 2011-86, L.O.F., extends the expiration of the period of exemption from filing a Florida Estate Tax Return for decedents who die after December 31, 2004, and prior to January 1, 2013. The purpose of the proposed amendments to Rule 12C-3.0015, F.A.C. (Documents, Extensions, and Due Dates for Filing), and to Rule 12C-3.008, F.A.C. (Public Use

Forms), is to update the rules and forms adopted by reference to provide the statutory period for the exemption from the requirement to file a Florida Estate Tax Return.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2190-2191), to advise the public of the development of changes to Rule 12C-3.0015, F.A.C. (Documents, Extensions, and Due Dates for Filing), and Rule 12C-3.008, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-3.0015, F.A.C. (Documents, Extensions, and Due Dates for Filing), and Rule 12C-3.008, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12C-3.0015, F.A.C. (Documents, Extensions, and Due Dates for Filing), and Rule 12C-3.008, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 3002-3003). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE
ESTATE TAX
AMENDING RULES 12C-3.0015 AND 12C-3.008

12C-3.0015 Documents, Extensions, and Due Dates for Filing.

(1) Decedents who died prior to January 1, 2005, or, after December 31, 2012 ~~2010~~.

(a)1. When the decedent died prior to January 1, 2005, or after December 31, 2012 ~~2010~~, 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. through 3. No change.

(b) No change.

(2) Decedents who died on or after January 1, 2005, and prior to January 1, 2013 ~~2011~~.

(a) No Florida estate tax return is required to be filed when the decedent died on or after January 1, 2005, and prior to January 1, 2013 ~~2011~~.

(b) through (c) No change.

(3) through (5) No change.

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,_____.

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
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(2) through (3) No change.

(4) DR-312	Affidavit of No Florida Estate Tax Due (R. 06/11 07/07)	___ 11/07
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(5) DR-313	Affidavit of No Florida Estate Tax Due When Federal Return is Required (R. 06/11 N. 12/07)	___ 04/09
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(6) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. 06/11 10/09)	___ 06/10
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Rulemaking Authority 198.08, 198.32(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 119.071(5), 198.08, 198.13, 198.22, 198.23, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS. History-New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, 5-4-03, 10-30-06, 11-6-07, 4-14-09, 6-28-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULES 12A-19.041 AND 12A-19.100

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), change the example of a transient public lodging establishment from “resort dwellings” to “vacation rentals,” consistent with Chapter 509, F.S., as amended by Chapter 2011-119, L.O.F.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used in the administration of the communications services tax to clarify provisions regarding place codes contained within a database submitted to the Department for certification, to remove obsolete provisions regarding tax brackets, and to update the local communications services tax rates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Chapter 2011-119, L.O.F., revises the classification of “resort condominiums” and “resort dwellings,” in Chapter 509, F.S., as “public lodging establishments” to “vacation rentals.” The purpose of the proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), is to update “resort dwellings” to “vacation rentals,” as an

example of a transient public lodging establishment consistent with the provisions of Chapter 509, F.S.

Chapter 2011-120, L.O.F., modifies Section 202.16(3), F.S., eliminating the requirement of the Department to provide tax amounts and brackets to communications services dealers and stating the requirement of communications services dealers to compute the state and the local communications services tax based on a rounding algorithm.

Providers of communications services address/jurisdiction databases and vendors of such databases may request that the Department certify their database for accuracy of the address/jurisdictions contained within the database. To apply, service providers and database vendors must submit Form DR-700012 (Application for Certification of Communications Services Database), along with their database containing a combination of FIPS 55 place codes and GNIS Feature Identifier place codes. When the place codes do not correlate, the database is returned to the applicant for correction.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to: (1) adopt, by reference, updates to Form DR-700012 to clarify that the FIPS 55 place codes and the GNIS Feature Identifier place codes contained within a database submitted for certification must correlate; (2) provide the version of Form DR-700016 that is to be used to report the communications services tax during the specified reporting periods; (3) remove the instructions contained under “Rounding rule,” on Page 20 of Form DR-700016, Florida Communications Services Tax Return (R. 07/11); and (4) update the local communications services tax rates that will be in effect on January 1, 2012, on Form DR-700016, Florida Communications Services Tax Return (R. 01/12).

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2185-2186), to advise the public of the development of changes to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), 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 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), and Rule 12A-19.100, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), and Rule 12A-19.100, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2983-2985). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULES 12A-19.041 AND 12A-19.100

12A-19.041 Sales of Communications Services to a Residential Household.

(1) through (2) No change.

(3) TRANSIENT PUBLIC LODGING ESTABLISHMENTS. The partial exemption for sales to residential households does not apply to sales to any residence that constitutes all or part of a transient public lodging establishment, as defined by Section 509.013, F.S.

(a) through (b) No change.

(c) A “transient public lodging establishment,” as defined in Section 509.013, F.S., means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings that is:

1. Advertised or held out to the public as a place that is regularly rented to guests; or
2. Rented more than three times in a calendar year, with each separate rental period having a duration less than 1 calendar month or less than 30 days.

(d) Transient public lodging establishments are rented to guests whose occupancy is intended to be temporary. Examples of transient public lodging establishments include hotels, motels, bed and breakfast inns, transient apartments, transient rooming houses, and vacation rentals ~~resort dwellings~~.

(4) through (5) No change.

Rulemaking Authority 202.26(3)(c) FS. Law Implemented 202.125(1), 202.13(2), 202.16(4), 202.19(10), 202.34(3), 202.35(4) FS. History—New 1-31-02, Amended 2-7-11,_____.

12A-19.100 Public Use Forms.

(1) 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>01/12</u>	<u>January 2012 -</u>	<u>January 1, 2012 -</u>
<u>07/11</u>	<u>July 2011 - December 2011</u>	<u>July 1, 2011 - December 31, 2011</u>
01/11	January 2011 - <u>June 2011</u>	January 1, 2011 - <u>June 30, 2011</u>
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. 05/11 10/09)	___ 06/10
(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> (R. <u>01/12</u>)	___
(b) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> (R. <u>07/11</u>)	___

(a) through (gg) renumbered (c) through (ii) No change.

(5) through (12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-29, FLORIDA ADMINISTRATIVE CODE
MULTITAX CREDITS
AMENDING RULES 12-29.002 and 12-29.003

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-29.002 (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment): (1) remove the limitation on the corporate income tax and insurance premium tax credits that were limited to 75% of the tax due after the required deductions; (2) provide that the five-year carryforward period is applicable to all credits approved under the Program for carryforward on or after July 1, 2011, and to all unused carryforward credits that were eligible to be carried forward as of July 1, 2011; (3) remove the limitation that prevented taxpayers who had previously rescinded a tax credit authorized under the Program from obtaining approval to rescind an outstanding tax credit; and (4) remove obsolete provisions.

The proposed amendments to Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications), adopt, by reference, changes to forms used in the administration of the Program to incorporate the changes made by Chapters 2011-76 and 2011-123, L.O.F.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Chapter 2011-123, L.O.F., extends the period for which tax credits authorized under the Florida Tax Credit Scholarship Program may be taken from three years to five years, eliminates

the 75% limitation on the corporate income tax and insurance premium tax credits, and allows taxpayers who have previously rescinded a tax credit more than once to obtain approval to rescind an outstanding tax credit.

Effective January 1, 2012, section 22, Chapter 2011-76, L.O.F., repeals the emergency excise tax.

The purpose of the amendments to Rule 12-29.002, F.A.C. (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment), and to Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications), is to incorporate these law changes.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2183-2184), to advise the public of the development of changes to Rule 12-29.002, F.A.C. (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment), and Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-29.002, F.A.C. (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment), and Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-29.002, F.A.C. (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment), and Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2977-2979). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-29, FLORIDA ADMINISTRATIVE CODE
MULTITAX CREDITS
AMENDING RULES 12-29.002 AND 12-29.003

12-29.002 Florida Tax Credit Scholarship Program; Participation; Allocation;
Carryforward; Rescindment.

(1) No change.

(2) TAXPAYERS ELIGIBLE TO PARTICIPATE IN THE PROGRAM. Taxpayers who pay any of the following taxes may apply to the Department for a credit allocation as follows:

(a) For the taxes administered by the Department:

1. through 4. No change.

~~5. Taxpayers who were eligible for tax credits authorized by Sections 220.187 and 624.51055, F.S., prior to July 1, 2010, remain eligible for the tax credit now authorized by Section 1002.395, F.S.~~

(b) No change.

(3) through (4) No change.

(5) TAX CREDITS.

(a)1. Corporate Income Tax - For tax years ending on or after July 1, 2011, a A tax credit of 100 percent of the contribution against any corporate income tax due for the tax year is allowed. The amount of the tax credit for a tax year:

a. Is taken in the order of the credits provided against the corporate income tax in Section

220.02(8), F.S. ~~Is limited to 75 percent of the corporate income tax due after application of any other allowable credits taken by the taxpayer for that tax year;~~

b. through c. No change.

2. No change.

(b)1. Insurance Premium Tax - For tax years ending on or after July 1, 2011, ~~a~~ tax credit of 100 percent of the contribution against any insurance premium tax due under Section 624.509(1), F.S., for the tax year is allowed. The amount of the tax credit is limited to ~~75 percent~~ of the insurance premium tax due after deducting:

a. through c. No change.

2. No change.

(c)1. Sales and Use Tax - ~~A Beginning January 1, 2011,~~ a tax credit of 100 percent of the contribution is allowed against any sales and use tax due imposed under Chapter 212, F.S., to any taxpayer who holds a valid Sales and Use Tax Direct Pay Permit issued by the Department.

(d) through (f) No change.

(6) CARRYFORWARD OF UNUSED CREDITS.

(a) When a taxpayer is unable to use a tax credit during the period specified by the Department in the approval letter, because the taxpayer's liability is insufficient, the taxpayer may apply to carry forward the unused tax credit amount for a period not to exceed five ~~three~~ years. The five-year carryforward period is applicable to all credits approved for carryforward on or after July 1, 2011, and to all unused carryforward credits that were eligible to be carried forward as of July 1, 2011. Taxpayers must apply on-line using the Department's website at www.myflorida.com/dor/taxes/tax_incentives.html or submit an Application for Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (Form DR-116000,

incorporated by reference in Rule 12-29.003, F.A.C.) requesting approval to carry forward the unused portion of the tax credit during the year in which the taxpayer wants to carry forward the unused tax credit. Applications to carry forward amounts beyond the five-year ~~three-year~~ period will not be accepted by the Department. See paragraph (3)(a) for submitting the application to the Department.

(b) No change.

(c) Within ten days of receipt of the application, the Department will send written correspondence regarding the amount of the credit carryforward, or the reason the carryforward request could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the carryforward before the Department will issue such correspondence. No request will be approved when the application for a credit allocation carryforward is submitted for a period beyond five ~~three~~ years from the year in which the credit allocation was approved.

(d) Examples.

1. Corporate Income Tax Example - A calendar year taxpayer applied for and was approved for a credit allocation against corporate income tax for the year ending December 31, 2011. To carry forward the unused portion of the credit allocation from its tax year ending December 31, 2011, to its tax year ending December 31, 2012, the taxpayer must apply to the Department, specifying the carryforward amount, on or after January 3, 2012. The application must be filed on or before December 31, 2012. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion. Any unused carryforward from its tax year ending December 31, 2011, expires on December 31, 2016 ~~2014~~.

2. Insurance Premium Tax Example - A taxpayer applied for and was approved for a credit allocation against insurance premium tax due for calendar year 2010. To carry forward the

unused portion of the credit allocation that was not taken on the 2010 insurance premium tax return (due March 1, 2011) to the 2011 insurance premium tax return, the taxpayer must apply to the Department, specifying the carryforward amount, on or after January 3, 2011. The application must be filed and approved on or before December 31, 2011. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion. Any unused carryforward from its tax year ending December 31, 2010, expires on December 31, 2015 ~~2013~~.

3. Sales and Use Tax Example - A taxpayer who holds a Sales Tax Direct Pay Permit applied for and was approved for a credit allocation against sales and use tax due to the Department for the state fiscal year 2011-2012. The taxpayer paid the contribution to an eligible nonprofit scholarship funding organization on July 15, 2011, and submitted a copy of the certificate of contribution received from the organization to the Department. The taxpayer's liability was insufficient to use the entire credit allocation on sales and use tax returns filed with the Department on or before June 30, 2012. To carry forward the unused portion of the tax credit to the 2012-2013 state fiscal year, the taxpayer must apply to the Department, specifying the carryforward amount during the 2012-2013 state fiscal year. The application must be filed and approved, and any approved carryforward must be taken on a sales and use tax return filed on or before June 30, 2013. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion to be used during the following state fiscal year. Any unused carryforward from the 2011-2012 state fiscal year expires June 30, 2017 ~~2015~~.

4. Tax on Oil and Gas Production - The same application periods and credit carryforward periods that apply to a sales and use tax credit allocation apply to a credit allocation against the tax on oil and gas production.

5. Excise Taxes on Liquor, Wine, and Malt Beverages Example - A taxpayer who holds a

liquor license issued by the Division applied for and was approved for a credit allocation against the liquor excise tax for returns due during the state fiscal year 2011-2012. The taxpayer's liability was insufficient to use the entire credit allocation during that state fiscal year. To carry forward the unused portion of the tax credit to the 2012-2013 state fiscal year, the taxpayer must apply to the Department, specifying the carryforward amount during the 2012-2013 state fiscal year. The application must be filed and approved, and any approved carryforward must be taken on a return filed with the Division, on or before June 30, 2013. If any unused portion of the credit allocation remains, the taxpayer must apply for a carry forward of the unused portion to be used during the following state fiscal year. Any unused carryforward from the 2011-2012 state fiscal year expires June 30, 2017 ~~2015~~.

(e) No change.

(7) RESCINDMENT OF UNUSED TAX CREDITS.

(a) No change.

(b) An application for rescindment of the unused credit allocation by the Department will not be approved when:

1. The amount of credit allocation requested to be rescinded has been claimed as a credit on a previously filed return; or

~~2. The taxpayer has had more than one approved rescindment of credit within the last three tax years; or,~~

~~2.3.~~ The allocation year is closed for all taxpayers. The allocation period for a calendar year is closed for all taxes and all taxpayers on November 30 of the subsequent calendar year.

(c) through (d) No change.

Rulemaking Authority 1002.395(13) F.S. Law Implemented 92.525(1)(b), 211.0251, 212.1831,

213.37, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS. History-New 6-6-11,
Amended.

12-29.003 Florida Tax Credit Scholarship Program; Applications.

(1)(a) The following application forms and instructions are used by the Department in its administration of the Florida Tax Credit Scholarship Program. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
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(2)(a) DR-116000	Application for Tax Credit Allocation for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 07/11 04/11)	___ 06/11
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00269)	

(b) DR-116100	Application for Rescindment of Tax Credit Allocation for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 07/11 01/11)	___ 06/11
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00270)	

Rulemaking Authority 213.06(1), 1002.395(13) F.S. Law Implemented 92.525(1)(b), 211.0251,

212.1831, 213.37, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS. History-New 6-6-11, Amended.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,

AVIATION FUELS, AND POLLUTANTS

AMENDING RULES 12B-5.030, 12B-5.040, 12B-5.050, 12B-5.060,

12B-5.070, 12B-5.080, 12B-5.090, 12B-5.100, 12B-5.110,

12B-5.121, 12B-5.130, 12B-5.150, 12B-5.200, AND 12B-5.400

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants): (1) revise terms to be consistent with the statutory terms “license tax” and “filing fee” for purposes of obtaining an annual Florida fuel tax license; (2) clarify that there is no license fee or license tax for local government users or mass transit systems to obtain a Florida fuel tax license; (3) clarify bonding requirements for licensing of wholesalers of fuel; (4) remove provisions regarding the availability of a refund of tax paid on diesel fuel used in the operations of boats, vessels, or equipment for fishing that are not consistent with the provisions of section 206.8745(1), F.S.; (5) provide the procedures on how to obtain a refund of the fuel taxes paid on diesel fuel used for commercial fishing purposes or by a vessel engaged in the commercial transportation of persons or property consistent with the provisions of section 206.8745(1), F.S.; (6) clarify that diesel fuel used for such commercial purposes is subject to sales tax, plus any applicable discretionary sales surtax; (7) adopt, by reference, updates to the fuel and pollutant tax returns.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 206.02(2)(c), F.S., requires terminal suppliers, importers, exporters, blenders, biodiesel manufacturers, and wholesalers to pay a \$30 license tax to obtain an annual fuel license or to renew an annual fuel license. Similar provisions are provided for carriers and terminal operators to obtain an annual fuel license in sections 206.021(3) and 206.022(2), F.S. Section 206.89(4), F.S., provides that a \$5 filing fee is required to obtain a license as a retailer of alternative fuel.

Sections 206.05(1), 206.051, and 206.89(2), F.S., provide that terminal suppliers, importers, exporters, wholesalers, and retailers of alternative fuel are required to post a bond to obtain a Florida fuel license. Section 206.9931(1), F.S., provides bond requirements for applicants applying for a license as an importer or producer of pollutants.

To obtain a Florida fuel license, the licensee is required to maintain a bond sufficient to ensure payment to the state of the amount of the tax, plus any penalties and interest, for which the person may become liable. A wholesaler who has no import or export activity that sells only undyed diesel fuel and that is not authorized by the Department to remit fuel tax to its supplier would have no liability to the state and would not be required to post a bond. Any applicant for a pollutants tax license for the sole purpose of applying for refunds of tax-paid pollutants would not be required to post a bond.

The purpose of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), is to: (1) correct the use of the term “license fee” to “license tax” and to correct the use of the term “registration fee” to “filing fee,” consistent with Sections 206.02(2)(c), 206.021(3), 206.022(2), and 206.89(4), F.S., as requested by the Joint Administrative Procedures Committee; (2) update provisions regarding

bonding requirements consistent with Sections 206.05(1), 206.051, 206.89(2), 206.9931(1), F.S.; and (3) adopt, by reference, changes to the fuel and pollutant returns to include the annual updates to the state fuel sales tax rate and the local option tax rates effective January 2012.

Section 206.8745(1), F.S., provides that any purchaser who purchases tax-paid diesel fuel and has paid the fuel taxes to the seller may claim a refund of the fuel taxes paid, as provided in Section 215.26, F.S., if the fuel is used for an exempt purpose as provided in section 206.874(3), F.S. The purpose of the proposed amendments to Rule 12B-5.130, F.A.C. (Refunds), is to amend the rule to reflect the provisions of Sections 206.874(3) and 206.8745(1), F.S.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2187-2188), to advise the public of the development of changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2988-2993). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. At this rule hearing, the Department announced the following changes to the proposed amendments to Rule Chapter 12B-5, F.A.C., and included the proposed changes in the record of the public hearing:

Paragraph (b) of subsection (6) of Rule 12B-5.050, F.A.C., has been changed so that, when adopted, that paragraph will read:

(6) REFUNDS AND CREDITS.

(b) Motor and Diesel Fuel Used for Agricultural Purposes.

1. Sales by terminal suppliers of taxable ~~motor diesel~~ fuel to persons for agricultural uses as provided in Section 206.63, F.S. Rule 12B-5.020, F.A.C., are subject to a refund pursuant to

Section 206.64, F.S., and Rule 12B-5.130, F.A.C., of ~~exempt from~~ the municipal fuel tax, the local option fuel tax, the state comprehensive transportation system tax, and the fuel sales tax imposed by Sections 206.41(1)(c), (e), (f), and (g), F.S.

2. ~~A terminal supplier must accrue tax on all sales of taxable diesel fuel.~~ A terminal supplier may sell taxable diesel fuel exempt for agricultural purposes, but must accrue all taxes imposed under Section 206.87, F.S. To obtain an ultimate vendor credit for the tax accrued, terminal suppliers must complete Schedule 12, Ultimate Vendor Credits. Schedule 12 is required to be filed with the Terminal Supplier Tax Return, as indicated on the return.

The title of the discretionary sales surtax rate table on Page 5 of Form DR-309639 and on Page 4 of Form DR-309640 (incorporated by reference in subsections (37) and (38) of Rule 12B-5.150, F.A.C.), and the statement below the table have been changed so that, when adopted, that title and that statement will read:

Discretionary Sales Surtax Rates for 2012

Each county that has a surtax levy that is new, revised, or extended is indicated in bold.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,

AVIATION FUELS, AND POLLUTANTS

AMENDING RULES 12B-5.030, 12B-5.040, 12B-5.050, 12B-5.060,

12B-5.070, 12B-5.080, 12B-5.090, 12B-5.100, 12B-5.110,

12B-5.121, 12B-5.130, 12B-5.150, 12B-5.200, AND 12B-5.400

PART I TAX ON MOTOR AND DIESEL FUEL

12B-5.030 Importers.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. through 5. No change.

6. Each initial and renewal application must be accompanied by a \$30 license tax fee.

(b) No change.

(3) through (5) 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(3), 206.02, 206.026, 206.027, 206.028, 206.03, 206.05, 206.051,

206.054, 206.43, 206.48(2), 206.485, 206.9835, 213.755 FS. History—New 7-1-96, Amended 11-

21-96, 10-27-98, 5-1-06, 6-1-09, ____.

12B-5.040 Carriers.

(1) LICENSING.

(a) through (c) No change.

(d) Each initial or renewal application must be accompanied by a \$30 license tax fee.

(2) through (3) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.97, 206.9915, 213.06(1),
213.755(8) FS. Law Implemented 206.021, 206.09, 206.199, 206.20, 206.204, 206.205, 206.485,
213.755 FS. History—New 7-1-96, Amended 11-21-96, 5-1-06, 6-1-09,_____.

12B-5.050 Terminal Suppliers.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. through 6. No change.

7. Each initial or renewal application must be accompanied by a \$30 license tax fee.

8. through 9. No change.

(b) No change.

(3) through (5) No change.

(6) REFUNDS AND CREDITS.

(a) No change.

(b) Motor and Diesel Fuel Used for Agricultural Purposes.

1. Sales by terminal suppliers of taxable motor diesel fuel to persons for agricultural uses as provided in Section 206.63, F.S. Rule 12B-5.020, F.A.C., are subject to a refund pursuant to Section 206.64, F.S., and Rule 12B-5.130, F.A.C., of exempt from the municipal fuel tax, the

local option fuel tax, the state comprehensive transportation system tax, and the fuel sales tax imposed by Sections 206.41(1)(c), (e), (f), and (g), F.S.

2. ~~A terminal supplier must accrue tax on all sales of taxable diesel fuel.~~ A terminal supplier may sell taxable diesel fuel exempt for agricultural purposes, but must accrue all taxes imposed under Section 206.87, F.S. To obtain an ultimate vendor credit for the tax accrued, terminal suppliers must complete Schedule 12, Ultimate Vendor Credits. Schedule 12 is required to be filed with the Terminal Supplier Tax Return, as indicated on the return.

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, 206.02, 206.05, 206.41, 206.413, 206.414, 206.43, 206.48, 206.485, 206.62, 206.63, 206.86, 206.87, 206.872, 206.873, 206.874, 206.8745, 206.90, 206.91, 206.97, 206.9815, 206.9941, 206.9942, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, _____.

12B-5.060 Wholesalers.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. through 5. No change.

6. Each initial and renewal application must be accompanied by a \$30 license tax fee.

(b) No change.

(c)1. Each wholesaler ~~that~~ which is licensed pursuant to Section 206.02, F.S., will be required to furnish a bond to the Department in a sum of not more than \$100,000, for each product type (motor fuel, diesel fuel, and aviation fuel).

2. ~~A bond will not be required if the sum of three times the average monthly fuel tax is~~

~~less than \$50.~~

3. through 7. Renumbered 2. through 6. No change.

7. A wholesaler who has no import or export activity, who sells only undyed diesel fuel, and who is not authorized by the Department to remit fuel tax to its supplier is not required to post a bond.

8. through 9. No change.

(d) No change.

(e) To conduct business as a retailer ~~wholesaler~~ 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 ~~wholesaler~~ 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) 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(6), 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,_____.

12B-5.070 Terminal Operators.

(1) LICENSING.

(a) through (c) No change.

(d) Each initial or renewal application must be accompanied by a \$30 license tax ~~fee~~ for each terminal location operated.

(2) 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(19), 206.022, 206.095, 206.485, 206.872, 213.755 FS. History– New 7-1-96, Amended 11-21-96, 5-1-06, 6-1-09,_____.

12B-5.080 Exporters.

(1) No change.

(2) LICENSING AND BONDING.

(a) No change.

(b)1.through 5. No change.

6. Each initial or renewal application must be accompanied by a \$30 license tax fee.

(c) No change.

(3) through (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,_____.

12B-5.090 Local Government Users.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. through 2. No change.

3. There is no ~~application fee or license fee~~ or license tax for a local government user to

obtain a license.

(b) No change.

(3) No change.

(4) REFUNDS AND CREDITS.

(a) No change.

(b)1. Any county, municipality, or school district, which is not licensed as a local government user, that uses tax-paid diesel fuel, gasoline, or gasohol in vehicles operated on the highways, may seek a refund each calendar quarter for the fuel ~~taxes~~ ~~sales tax~~ imposed under Section 206.41(1)(b) and (g), F.S., for gasoline and gasohol, ~~and~~ 1 cent of the tax imposed under Section 206.87(1)(a), F.S., and all of the tax imposed under Section 206.87(1)(~~e~~)(~~b~~), F.S., on diesel fuel.

2. through 4. No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.41(4), 206.86(11), 206.874(4), 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09,_____.

12B-5.100 Mass Transit Systems.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. through 2. No change.

3. There is no ~~application fee or license fee~~ or license tax for a mass transit system to obtain a license.

(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 206.41(4), 206.86(12), 206.874(5)(a), 213.755 FS. History–New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09,_____.

12B-5.110 Blenders.

(1) No change.

(2) LICENSING.

(a)1. through 4. No change.

5. Each initial or renewal application must be accompanied by a \$30 license tax ~~fee~~.

(b) No change.

(3) 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 206.02(3), 206.48(1), 206.485, 206.86(7), 206.87(2)(e), 213.755 FS. History–New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09,_____.

12B-5.121 Temporary Licenses Issued Under a Declared Emergency.

(1) No change.

(2) LICENSING.

(a) through (b) No change.

(c) No licensing tax ~~fee~~ is required to obtain a temporary fuel license. No criminal background investigation of an applicant will be conducted.

(d) through (e) No change.

(3) through (7) No change.

Rulemaking Authority 206.14(1), 206.59(1) FS. Law Implemented 206.02(8), 206.021(5), 206.051(4), 206.052, 206.41(1), 206.43(1), 206.62, 206.87(1), 206.8745, 206.91, 206.9825(1)(a), 213.255(2), (3), 215.26(2) FS. History—New 6-1-09,_____.

12B-5.130 Refunds.

(1) FUEL USED FOR AGRICULTURAL, AQUACULTURAL, COMMERCIAL FISHING, AND COMMERCIAL AVIATION PURPOSES.

(a)1. No change.

2. Persons using motor fuel ~~or diesel fuel~~ in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt or fresh waters of Florida for sales are entitled to a refund of municipal fuel tax and local option, state comprehensive enhanced transportation system, ~~municipal fuel tax,~~ and fuel sales taxes paid under Section 206.41(1)(c), (e), (f), and (g), F.S., and Sections 206.87(1)(c), (d), (e), F.S.

3. No change.

(b) through (c) No change.

(2) through (3) No change.

(4) DIESEL FUEL SOLD FOR USE IN VESSELS.

(a) through (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 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-309639 must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

3. The purchaser is required to pay the sales tax, plus any applicable discretionary sales surtax. The Department will reduce the amount of refund due on tax-paid diesel fuel used for commercial fishing purposes or for use by a vessel engaged in the business of commercial transportation of persons or property by the amount of sales tax and discretionary sales surtax due.

(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, 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,_____.

Cross Reference – Rules 12A-1.059 and 12A-1.0641, F.A.C.

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
(2) DR-138	Application for Fuel Tax Refund – Agriculture,	

	Aquacultural, Commercial Fishing or Commercial Aviation Purposes (R. <u>01/12</u> 01/11)	<u>01/11</u>
(3) through (6)	No change.	
(7) DR-157A	Assignment of Time Deposit (R. <u>09/11</u> 05/05)	<u>05/06</u>
(8) through (9)	No change.	
(10) DR-160	Application for Fuel Tax Refund – Mass Transit System Users (R. <u>01/12</u> 01/11)	<u>01/11</u>
(11) through (13)	No change.	
(14) DR-182	Florida Air Carrier Fuel Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
(15)	No change.	
(16) DR-189	Application for Fuel Tax Refund – Municipalities, Counties and School Districts (R. <u>01/12</u> 01/11)	<u>01/11</u>
(17) DR-190	Application for Fuel Tax Refund – Non-Public Schools (R. <u>01/12</u> 01/11)	<u>01/11</u>
(18) DR-191	Application for Aviation Fuel Refund – Air Carriers (R. <u>01/12</u> 07/06)	<u>04/07</u>
(19) DR-248	<u>2012</u> 2011 Alternative Fuel Use Permit Application, Renewal, and Decal Order Form (R. <u>11/11</u> 11/10)	<u>01/11</u>
(20) DR-904	Pollutants Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
(21) DR-309631	Terminal Supplier Fuel Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
(22) DR-309631N	Instructions for Filing Terminal Supplier Fuel	

	Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(23) DR-309632	Wholesaler/Importer Fuel Tax Return (R. (R. <u>01/12</u> 01/11))	___ 01/11
(24) DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(25) DR-309633	Mass Transit System Provider Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(26) DR-309633N	Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(27) DR-309634	Local Government User of Diesel Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(28) DR-309634N	Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(29) DR-309635	Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(30) DR-309635N	Instructions for Filing Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(31) DR-309636	Terminal Operator Information Return (R. <u>01/12</u> 01/11)	___ 01/11
(32) DR-309636N	Instructions for Filing Terminal Operator Information Return (R. <u>01/12</u> 01/11)	___ 01/11
(33) DR-309637	Petroleum Carrier Information Return (R. <u>01/12</u> 01/11)	___ 01/11

(34) DR-309637N	Instructions for Filing Petroleum Carrier Information Return (R. <u>01/12</u> 01/11)	___ 01/11
(35) DR-309638	Exporter Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(36) DR-309638N	Instructions for Filing Exporter Fuel Tax Return (R. <u>01/12</u> 01/11)	___ 01/11
(37) DR-309639	Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (with instructions) (R. <u>01/12</u> 07/11)	___ 07/11
(38) DR-309640	Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (R. <u>01/12</u> 01/11)	___ 01/11
(39) DR-309645	<u>2012</u> 2011 Refundable Portion of Local Option and State Comprehensive Enhanced Transportation System (SCETS) Tax (R. <u>01/12</u> 01/11)	___ 01/11
(40) DR-309660	Application for <u>Pollutants</u> Pollutant Tax Refund (R. <u>01/12</u> 01/11)	___ 01/11

(41) No change.

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

Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028,
206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.86,
206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9942,
206.9943, 212.0501, 213.255, 213.755, 526.203 FS. History-New 11-21-96, Amended 10-27-98,

5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-11, 7-20-11,_____.

PART II TAX ON ALTERNATIVE FUEL

12B-5.200 Retailers of Alternative Fuel.

(1) No change.

(2) LICENSING AND BONDING.

(a)1. No change.

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

(b) through (c) No change.

(3) through (5) No change.

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

PART IV TAX ON POLLUTANTS

12B-5.400 Producers and Importers of Pollutants.

(1) through (2) No change.

(3) LICENSING AND BONDING.

(a) through (d) No change.

(e) No bond ~~is will~~ be required to obtain a pollutant tax license for the sole purpose of applying for refunds of tax paid on pollutants, as provided in Section 206.9942, F.S. if three times the average monthly pollutants tax paid or due is less than \$50.

(4) through (7) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1), 213.755(8) FS. Law Implemented
206.9915, 206.9925, 206.9931, 206.9935, 206.9941, 206.9942, 206.9943, 213.755 FS. History-
New 11-21-96, Amended 10-27-98, 5-1-06, 6-1-09,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
AMENDING RULES 12-22.005 AND 12-22.007

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-22.005, F.A.C. (Disclosure Procedures), remove information on how to obtain copies of Form DR-835 (Power of Attorney and Declaration of Representative) from the Department redundant of the provisions of Rule 12-6.0015, F.A.C.

The proposed amendments to Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program): (1) update the Registration Information Sharing and Exchange Program Coordinator's contact information; (2) adopt, by reference, forms used by the Department in the administration of the Program; and (3) clarify that each authorized employee of a Program participant must execute the certification regarding confidentiality requirements by January 31 of each year.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed rule amendments to Rule 12-22.005, F.A.C. (Disclosure Procedures), is to remove language on how to obtain copies of forms from the Department that is redundant of the provisions of Rule 12-6.0015, F.S., which incorporates by reference, Form DR-835 (Power of Attorney and Declaration of Representative).

The purpose of the proposed amendments to Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program), is to: (1) amend the agreements used by the Department to administer the Program, requiring an indication of which locally-imposed tax the participating Government Entity is requesting an exchange of tax information for; (2) create a separate form for Program participants to make the required annual certification regarding the confidentiality of the information exchanged under the Program; (3) clarify that each authorized employee of a Program participant must execute the certification regarding confidentiality requirements by January 31 of each year; and (4) update the Registration Information Sharing and Exchange Program Coordinator's contact information.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2183), to advise the public of the development of changes to Rule 12-22.005, F.A.C. (Disclosure Procedures), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 29, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on August 12, 2011 (Vol. 37, No. 32, pp. 2331-2332), to advise the public of the development of changes to Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program), and to provide that, if requested in writing, a rule development workshop would be held on August 29, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-22.005, F.A.C. (Disclosure Procedures) and Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-22.005, F.A.C. (Disclosure Procedures) and Rule 12-22.007, F.A.C. (Registration Information Sharing and Exchange Program), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2975-2977). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450

Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments.

In response to comments provided by the Joint Administrative Procedures Committee, dated October 21, 2011, technical changes to reflect the correct title of Form GT-400210, “Registration Information Sharing and Exchange Program – Level-One Agreement,” and Form GT-400211, “Registration Information Sharing and Exchange Program – Level-Two Agreement,” are included in subparagraphs (2)(c)1. and 2. of Rule 12-22.007, F.A.C.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-22, FLORIDA ADMINISTRATIVE CODE
CONFIDENTIALITY AND DISCLOSURE OF TAX INFORMATION
AMENDING RULES 12-22.005 AND 12-22.007

12-22.005 Disclosure Procedures.

(1) through (2)(b)2. No change.

3. A taxpayer may authorize his representative to receive confidential state tax information by a documented Power of Attorney filed with the Department. The Department prescribes form DR-835, Power of Attorney and Declaration of Representative (incorporated by reference in Rule 12-6.0015, F.A.C.), as the form to be used for the purposes of this chapter. ~~This form may be obtained through one of the following methods: 1) writing the Florida Department of Revenue, Records Management Room 1-4364, 5050 West Tennessee Street, Tallahassee, Florida 32399-0158; or, 2) faxing the request for forms to the Forms 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 in parentheses (www.myflorida.com/dor).~~

4. No change.

(3) through (5) No change.

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 213.053, 213.22 FS. History—

New 12-18-88, Amended _____.

12-22.007 Registration Information Sharing and Exchange Program.

(1)(a) No change.

(b) General information regarding the RISE Program and specific questions regarding the status of any data supplied by the Department should be directed to the General Tax Administration RISE Coordinator, General Tax Administration Resource Management, Mail Stop 1-1229 Compliance Enforcement Process Manager's Office, 5050 West Tennessee Street, Tallahassee, Florida 32399-0131 or by telephone, (850) 717-6370 ~~(850) 717-6730~~ or by visiting the Department's Internet site at <http://www.myflorida.com/dor/governments/rise.html>.

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

(c) The Department hereby incorporates the following agreements used in the administration of the RISE Program. Copies of these agreements may be obtained, without cost, by: 1) downloading the selected agreement from the Department's Internet site at www.myflorida.com/dor; or, 2) calling the General Tax Administration RISE Coordinator at (850) 717-6370 ~~(850) 717-6730~~; or, 3) writing the General Tax Administration RISE Coordinator, General Tax Administration Resource Management, Mail Stop 1-1229 Compliance Enforcement Process Manager's Office, 5050 West Tennessee Street, Tallahassee, Florida 32399-0131. Persons with hearing or speech impairment may call the Department's TDD at (800) 367-8331.

Number	Title	Effective Date
1. GT-400210	Registration and Information Sharing and Exchange <u>(RISE)</u> Program – Level-One	

	Agreement (R. <u>01/12</u> 10/06)	___ 04/07
2. GT-400211	Registration and Information Sharing and Exchange (<u>RISE</u>) Program – Level-Two Agreement (R. <u>01/12</u> 10/06)	___ 04/07
3. <u>GT-400212</u>	<u>Registration Information Sharing and Exchange (RISE) Program Participant Certification for Access to Confidential State Tax Information (N. 01/12)</u>	___

(d) No change.

(e) 1. Section 213.053(8)(j), F.S., provides that the Department may provide the information authorized under Section 213.0535, F.S., to eligible participants and certified public accountants for such participants in the RISE Program. As a part of the Level-one RISE Agreement (GT-400210), or the Level-two RISE Agreement (GT-400211), each authorized employee of the participating government agency is required to execute Form GT-400212 Attachment C (Registration Information Sharing and Exchange (RISE); Program Participant Certification for Access to Confidential State Tax Information), with the confidentiality requirements of Section 213.053, F.S., and Rule Chapter 12-22, F.A.C., ~~by January 31 of each year.~~ Any person who becomes an authorized employee subsequent to January 31 must execute a separate certification. Executed certifications must be forwarded to the RISE Coordinator within 15 business days of the date of hire or the date of change in employment status.

2. Each year each authorized employee of the participating government agency is required to execute Form GT-400212 certifying his or her familiarity with the confidentiality

requirements. Executed certifications must be forwarded to the RISE Coordinator by January 31 of each year.

(3) through (4) No change.

Rulemaking Authority 213.0535(4), 213.06(1) FS. Law Implemented 213.053(8)(j), 213.0535 FS. History—New 3-17-93, Amended 4-2-00, 4-16-07,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
AMENDING RULE 12-3.0015

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-3.0015, F.A.C. (Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded), remove provisions regarding the obsolete Fax on Demand System and provisions referring to Chapter 221, F.S., which imposes the Florida emergency excise tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Prior to posting forms and other documents on the Department's website, taxpayers were able to obtain forms and tax information using the Department's Fax on Demand System. With forms and tax information readily available on the website, the Fax on Demand System has been discontinued.

Effective January 1, 2012, section 22, Chapter 2011-76, L.O.F., repeals the emergency excise tax.

The purpose of the proposed amendments to Rule 12-3.0015, F.A.C. (Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded), is to remove provisions regarding the obsolete Fax on Demand System and provisions regarding the emergency excise tax that will be repealed effective January 1, 2012.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2181), to advise the public of the development of changes to Rule 12-3.0015, F.A.C. (Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-3.0015, F.A.C. (Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-3.0015, F.A.C. (Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2971-2972). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
AMENDING RULE 12-3.0015

12-3.0015 Interest Applicable to Unpaid Tax Liabilities or Amounts Not Timely Refunded.

(1) The provisions of Section 213.235, F.S., and this rule apply to all taxes listed in Section 213.05, F.S., except those taxes imposed by ~~Chapter~~ Chapters 220 and 221, F.S. The interest rate provisions of Rule 12C-1.343, F.A.C., ~~shall continue to~~ apply to the taxes imposed by ~~Chapter~~ Chapters 220 and 221, F.S.

(2) through (3) No change.

(4)(a) The interest rate determined pursuant to Section 213.235, F.S., is subject to change on January 1st and July 1st of each year.

(b) The applicable interest rate for any 6-month period can be obtained by any of the following methods:

1. Accessing the Department's website at www.myflorida.com/dor/taxes ~~web site at the address in brackets [<http://www.myflorida.com/dor/>]~~.

2. Calling Taxpayer Tax Information ~~Services~~ during regular business hours at (800) 352-3671.

3. ~~Calling the Department's Fax on Demand Retrieval System by dialing (850) 922-3676 from the handset of the fax machine.~~

(5) No change.

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 213.235, 213.255 FS. History–

New 4-2-00, Amended _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-6, FLORIDA ADMINISTRATIVE CODE
INFORMAL PROTEST AND APPEAL PROCEDURE
AMENDING RULE 12-6.0015

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-835 (Power of Attorney and Declaration of Representative), used by taxpayers to grant a representative the authority to perform certain duties on their behalf with the Department.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), is to adopt, by reference, changes to Form DR-835 (Power of Attorney and Declaration of Representative) that will provide for the inclusion of an e-mail address at which the Department may contact a taxpayer's representative.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2181-2182), to advise the public of the development of changes to Rule 12-6.0015, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-6.0015, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2972-2973). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-6, FLORIDA ADMINISTRATIVE CODE
INFORMAL PROTEST AND APPEAL PROCEDURE
AMENDING RULE 12-6.0015

12-6.0015 Public Use Forms. The following form is employed by the Department in its dealings with the public. This form is hereby incorporated by reference in this rule. Copies of this form are available, without cost, by using one or more of the following methods: 1) downloading the form from the Department’s Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

Form Number	Title	Effective Date
DR-835	Power of Attorney and Declaration of Representative (R. 10/11 09/09)	___ 06/10

Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 119.071(5), 213.21 FS. History—New 3-6-03, Amended 4-5-07, 1-27-09, 6-28-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.003

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-6.003, F.A.C. (Form of Consent Agreements), remove provisions regarding the obsolete Fax on Demand System.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Prior to posting forms and other tax information on the Department's website, taxpayers were able to obtain forms and tax information using the Department's Fax on Demand System. With forms and tax information readily available on the website, the Fax on Demand System has been discontinued. The purpose of the proposed rule amendments to Rule 12-16.003, F.A.C. (Form of Consent Agreements), is to remove obsolete provisions regarding the Fax on Demand System.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2182), to advise the public of the development of changes to Rule 12-16.003, F.A.C. (Form of Consent Agreements), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-16.003, F.A.C. (Form of Consent Agreements). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-16.003, F.A.C. (Form of Consent Agreements), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2973-2974). A rule hearing was held on October 26, 2011, in Room 1220,

Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.003

12-16.003 Form of Consent Agreements.

(1) No change.

(2) The Department prescribes Form DR-872, Consent to Extend the Time to Issue an Assessment or to File a Claim for Refund, dated October 2003, as the form to be used for the purposes of this chapter and incorporates this form by reference. A copy of this form may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; ~~writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112~~; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; ~~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, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112 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. The Department will provide this form to the taxpayer with the information specified in subsection (1) of this rule already entered on the form.

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

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULES 12-18.001 AND 12-18.004

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-18.001, F.A.C. (Authorization for Compensation), remove provisions regarding the emergency excise tax.

The proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), adopt, by reference, changes to Form DR-55 (Application for Compensation for Tax Information) that remove reference to the emergency excise tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective January 1, 2012, Section 22, Chapter 2011-76, L.O.F., repeals the emergency excise tax. The purpose of the proposed amendments to Rule 12-18.001, F.A.C. (Authorization for Compensation), and Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), is to reflect the repeal of the emergency excise 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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2182-2183), to advise the public of the development of changes to Rule 12-18.001, F.A.C. (Authorization for Compensation), and Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-18.001, F.A.C. (Authorization for Compensation), and Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12-18.001, F.A.C. (Authorization for Compensation), and Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), were

noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2974-2975). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULES 12-18.001 AND 12-18.004

12-18.001 Authorization for Compensation.

(1)(a) The Executive Director of the Department of Revenue or the Executive Director's designee is authorized to compensate persons who provide information leading to the punishment of, or collection of taxes, surtaxes, surcharges, fees, penalties, or interest from, any person with respect to the taxes enumerated in Section 213.05, F.S. The Department is not authorized to compensate persons who provide information with respect to a revenue or tax law that is not administered, regulated, controlled, and collected by the Department, as provided in Section 213.05, F.S. No person is authorized under these rules to make any offer, or promise, or otherwise to bind the Executive Director or the Executive Director's designee with respect to the payment of any compensation or the amount thereof.

(b) The Department administers, regulates, controls, and collects the following:

1. No change.
2. Corporate income ~~and emergency excise~~ tax;
3. through 18. No change.

(2) No change.

Rulemaking Authority 213.06(1), 213.30(1) FS. Law Implemented 213.30 FS. History—New 6-21-88, Amended 11-14-91, 9-14-93, 10-19-99, 6-1-09,_____.

12-18.004 Submission of Information and Claims for Compensation.

(1) through (2) No change.

(3)(a) The Department designates Form DR-55, Application for Compensation for Tax Information, as the form to be used by claimants for this purpose. Form DR-55, Application for Compensation for Tax Information (R. ~~01/12~~ ~~09/09~~, Effective ____ ~~06/10~~), is hereby incorporated, by reference, in this rule.

(b) No change.

Rulemaking Authority 213.06(1), 213.30(1) FS. Law Implemented 92.525(2), 119.071(5), 213.30 FS. History—New 6-21-88, Amended 11-14-91, 10-19-99, 10-1-03, 10-30-06, 6-1-09, 6-28-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.097 AND 12A-1.107
REPEALING 12A-1.0142

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), removes obsolete provisions regarding administration of the Florida Renewable Energy Technologies Sales Tax Program.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, updates to Form DR-1 (Florida Business Tax Application), changes to sales and use tax returns, and updates to direct pay permits issued by the Department to qualified taxpayers.

The proposed amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), remove provisions regarding the obsolete Fax on Demand System.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The Department of Environmental Protection Florida Renewable Energy Technologies Sales Tax Program, as provided in Section 212.08(7)(ccc), F.S., established by Section 9, Chapter 2008-227, L.O.F., expired July 1, 2010. Section 1, Chapter 2011-3, L.O.F., removes the

obsolete statutory section from the Florida Statutes. The purpose of the proposed repeal of Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), is to remove obsolete provisions regarding the Department's administration of the Program.

Form DR-1 (Florida Business Tax Application) has been updated and reorganized to simplify the registration process for Florida's taxes administered by the Department and to obtain information from taxpayers that will allow the Department to provide information regarding Florida's tax laws to those taxpayers impacted by the law. In addition, the use of the sales and use tax returns is currently limited to reporting tax for a single calendar year. The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to: (1) adopt the changes to Form DR-1 (Florida Business Tax Application); (2) consolidate and simplify instructions for sales and use tax returns; and (3) remove the limitation of the use of the tax return to a single calendar year.

Prior to posting forms and other documents on the Department's website, taxpayers were able to obtain forms and documents by fax, using the Department's Fax on Demand System. With forms and documents readily available on the website, the Fax on Demand System has been discontinued. The purpose of the proposed rule amendments to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to remove provisions regarding the obsolete Fax on Demand System.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2184-2185), to advise the public of the development of changes to Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), Rule 12A-1.097, F.A.C. (Public Use Forms), and Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), Rule 12A-1.097, F.A.C. (Public Use Forms), and Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), Rule 12A-1.097, F.A.C. (Public Use Forms), and Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2979-2982). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.097 AND 12A-1.107
REPEALING 12A-1.0142

12A-1.0142 Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies.

Rulemaking Authority 212.08(7)(ccc), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(7)(ccc), 213.255, 215.26, 377.801-.806 FS. History—New 6-4-08, Repealed_____.

12A-1.097 Public Use Forms.

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

(a) No change.

(b) Forms (certifications) specifically denoted by an asterisk (*) are issued by the Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Florida Department of Revenue

Taxpayer Services

5050 West Tennessee Street, ~~Bldg. L~~

Tallahassee, Florida 32399-0112.

Form Number	Title	Effective Date
(2)(a) DR-1	<u>Florida Business Tax Application to Collect and/or Report Tax in Florida</u> (R. 07/11 09/09)	___ 06/10
<u>(b) DR-1N</u>	<u>Instructions for Completing the Florida Business Tax Application (Form DR-1)</u> (N. 07/11)	___
<u>(c)(b) DR-1CON</u>	Application for Consolidated Sales and Use Tax Filing Number (R. 02/11 03/04)	___ 09/04
(3) through (4) No change.		
(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. 01/12 01/11)	___ 01/11
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. 01/12 01/11)	___ 01/11
(c) DR-15CON	Consolidated Summary - Sales and Use Tax Return (R. 01/12 01/11)	___ 01/11
(6)(a) DR-15	Sales and Use Tax Return (R. 01/12 01/11)	___ 01/11
<u>(b) DR-15N</u>	<u>Instructions for DR-15 Sales and Use Tax Returns (R. 01/12)</u>	___
(b) DR-15CS	Sales and Use Tax Return (R. 01/11)	01/11
(e) DR-15CSN	DR-15 Sales and Use Tax Instructions (R. 01/11)	01/11

(c)(d) DR-15EZ	Sales and Use Tax Return (R. <u>01/12</u> 01/11)	<u> </u> 01/11
(e) DR-15EZCSN	DR-15EZ Sales and Use Tax Return—Instructions	
	(R. 01/11)	01/11
(d)(f) DR-15EZN	Instructions for 2011 DR-15EZ Sales and	
	Use Tax Returns (R. <u>01/12</u> 01/11)	<u> </u> 01/11
(e)(g) DR-15JEZ	No change.	
(f)(h) DR-15MO	No change.	
(i) DR-15N	Instructions for 2011 DR-15 Sales and Use	
	Tax Returns (R. 01/11)	01/11

Renumber (j) through (m) as (g) through (j) No change.

(7)(a) No change.

(b) DR-16P*	Sales and Use Tax Direct Pay Permit	
	<u>(R. 09/11</u> N. 01/03)	<u> </u> 06/03

(c) No change.

(8) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37,

219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History-New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11,_____.

12A-1.107 Enterprise Zone and Florida Neighborhood Revitalization Programs.

(1) through (7) No change.

(8) OBTAINING FORMS.

(a) The forms referenced in this rule are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; 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, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112 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.

(b) These forms may also be obtained from the Enterprise Zone Development Agency for

the enterprise zone in which the business is located.

(9) No change.

Rulemaking Authority 212.08(5)(g)6., (h)6., (n)4., (o)4., (15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g), (h), (n), (o), (q), (15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2) FS. History—New 1-3-96, Amended 6-19-01, 8-1-02, 5-4-03, 5-1-06, _____.

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), update forms used by the Department in the administration of solid waste fees and the rental car surcharge.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Currently, the use of the solid waste and rental car surcharge form is limited to a single calendar year. The purpose of the proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), is to consolidate and simplify instructions for the solid waste fees and the rental car surcharge returns and to remove the limitation of the use of the tax return to a single calendar year.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2185), to advise the public of the development of changes 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 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-16.008, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2982-2983). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

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
(2) DR-15SW	Solid Waste and Surcharge Return (R. 01/12 01/11)	___ 01/11
(3) DR-15SWN	Instructions for DR-15SW Solid Waste and Surcharge Returns (R. 01/12 01/11)	___ 01/11

(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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES, FEES, AND SURCHARGES
AMENDING RULES 12B-7.008 AND 12B-7.026

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms), adopt, by reference, updates to Forms DR-144 and DR-144ES for reporting the tax on gas and sulfur production in Florida.

The proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms), adopt, by reference, updates to Forms DR-142 and DR-142ES for reporting the severance taxes on the solid mineral production in Florida.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendments to Rules 12B-7.008 and 12B-7.026, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the severance tax imposed on oil, gas, sulfur, and solid minerals produced in Florida.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2188), to advise the public of the development of changes to Rules 12B-7.008 and 12B-7.026, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rules 12B-7.008 and 12B-7.026, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rules 12B-7.008 and 12B-7.026, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2993-2994). A rule hearing was held on October 26, 2011, in Room

1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES, FEES, AND SURCHARGES
AMENDING RULES 12B-7.008 AND 12B-7.026

12B-7.008 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-144	Gas and Sulfur Production Quarterly Tax Return (R. <u>07/11</u> 01/11)	___ 01/11
(3) DR-144ES	Declaration of Estimated Gas and Sulfur Production Tax (R. <u>07/11</u> 01/11)	___ 01/11

(4) through (5) No change.

Rulemaking Authority 211.075(2), (3), ~~211.125(1)~~, 213.06(1), 1002.395(13) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.02, 211.0251, 211.026, 211.06, 211.075, 211.076, 211.125, 213.255, 213.755(1), 215.26, 1002.395 FS. History-New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03, 10-1-03, 11-6-07, 1-27-09, 1-11-10, 1-12-11, _____.

12B-7.026 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes and surcharge imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-142	Solid Mineral Severance Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
(3) DR-142ES	Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. <u>01/12</u> 01/11)	<u>01/11</u>

Rulemaking Authority 211.33(~~1~~), (6), 213.06(1), 1002.395(13) FS. Law Implemented 92.525(2), 211.3108, 211.0251, 211.30, 211.31, 211.3103, 211.3106, 211.33, 213.255, 213.755(1), 215.26, 1002.395 FS. History-New 12-18-94, Amended 10-4-01, 5-4-03, 10-1-03, 11-6-07, 1-27-09, 1-11-10, 1-12-11, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULES 12B-8.001, 12B-8.0012, 12B-8.003, 12B-8.006, AND 12B-8.016
REPEALING 12B-8.007

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), update statutory references, remove unnecessary effective dates, remove provisions regarding the emergency excise tax, and update an example regarding credits against the tax.

The proposed amendments to Rule 12B-8.0012, F.A.C. (Insurance Policy Surcharge; Rate and Computation), remove unnecessary effective dates and the trust fund into which the insurance policy surcharge proceeds are deposited, as provided in section 252.372, F.S.

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments): (1) remove the requirement for a corporate officer or attorney to declare the correctness and completeness of the insurance premium tax, fee, and surcharge return that is redundant of provisions contained in insurance premium tax returns; and (2) adopt, by reference, changes to forms used by the Department in the administration of the insurance premium taxes, fees, and surcharges.

The proposed amendments to Rule 12B-8.006, F.A.C. (State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount), remove obsolete provisions regarding the trust

fund into which the regulatory assessment and surcharge are deposited. Section 624.516, F.S., requires the regulatory assessment imposed under section 624.515(1), F.S., and the surcharge imposed under section 624.515(2), F.S., to be deposited into the Insurance Regulatory Trust Fund.

The proposed repeal of Rule 12B-8.007, F.A.C. (Deposit of Certain Tax Receipts; Refund of Improper Payments), removes unnecessary provisions regarding the deposit and distribution of proceeds from all premium taxes that are provided in Section 624.521, F.S.

The proposed amendments to Rule 12B-8.016, F.A.C. (Retaliatory Provisions), remove unnecessary effective dates, obsolete provisions, and provisions regarding the emergency excise tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendments to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), is to update statutory and rule references, remove unnecessary effective dates, remove provisions regarding the emergency excise tax repealed effective January 1, 2012, by section 22, Chapter 2011-76, L.O.F., and provide technical changes.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2188-2189), to advise the public of the development of changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2994-2998). A rule hearing was held on October 26,

2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments.

In response to comments received from the Joint Administrative Procedures Committee, dated November 1, 2011, technical changes were required to:

- Correctly title Form DR-907N, (Instructions for Filing Insurance Premium Installment Payment (Form DR-907)) in renumbered paragraph (4)(b) of Rule 12B-8.003, F.A.C.;
- Correct the reference on Page 6, Form DR-908N (Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return) to read Section 220.191(1)(g)1. and 2., F.S.; and
- Correctly title the Chief Financial Officer on Page 14, Form DR-908N.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE

INSURANCE PREMIUM TAXES, FEES AND SURCHARGES

AMENDING RULES 12B-8.001, 12B-8.0012, 12B-8.003, 12B-8.006, AND 12B-8.016

REPEALING 12B-8.007

12B-8.001 Premium Tax; Rate and Computation.

(1) No change.

(a) A tax at the rate of 1.75 percent of the gross amount of receipts for insurance premiums and assessments shall be applied to the following types of policies:

1. through 2. No change.

3. Reciprocal insurance under Chapter 629 ~~Section 629.5011~~, F.S.

4. through 9. No change.

(b) No change.

(c) ~~A Effective July 1, 1988,~~ a tax at the rate of 1.6 percent of the gross premiums, contributions, and assessments received by the following shall be applied:

1. Commercial self-insurance fund under Section 624.475, F.S.

2. Group self-insurance fund under Section 624.4621, F.S.

(d) A tax at the rate of 1.6 percent of the gross premiums, contributions, or assessments received by the following shall be applied:

1. Medical Malpractice Self-Insurance under Section 627.357, F.S.

2. Assessable Mutual Insurers under Section 628.6015, F.S., ~~effective October 1, 1991.~~

3. Corporation Not for Profit Self-Insurance Funds under Section 624.4625, F.S.

4. Public Housing Authorities Self-Insurance Funds under Section 624.46226, F.S.

(e) No change.

(2) No change.

(a) The installment of the estimated premium tax due shall not be less than 90 percent of the amount finally shown to be due in any quarter, as evidenced by the annual report, without deductions for any credits. ~~The Effective January 1, 1993, the 90 percent is shall be~~ based on the actual tax paid for that year, as evidenced by the annual return, after allowable credits. The 90 percent will be determined by computing the gross tax due for each quarter, direct premiums written times the tax rate, less 25 percent of the allowable credits as evidenced by line 2 of the first page of the annual return filed for that year times 90 percent. However, the taxpayer has the option of paying, in each installment, 27 percent of the amount of annual tax reported, after allowable credits, on his return for the previous year without penalty or interest applying. If a return was not filed for the previous year, the installments must meet the 90 percent requirement. If the tax is not paid in this manner, a 10 percent penalty shall be imposed on each underpayment or late payment of tax due and payable for that quarter. If the installment is based on 27 percent of the amount of the annual tax reported on the return for the preceding year and the installment payment is remitted to the Department after the due date, the installment shall be based on the 90 percent requirement instead of the 27 percent method. Any underpayment or delinquent payment shall be subject to a penalty of 10 percent, and interest from the due date until paid.

(b) through (c) No change.

(3) Credits Against the Tax.

(a)1. The corporate income tax imposed under Chapter 220, F.S., ~~and the emergency~~

~~excise tax imposed under Chapter 221, F.S., which is~~ are, or should have been, filed and paid by an insurer shall discharge the liability for the insurance premium tax (~~IPT~~) imposed under Section 624.509, F.S., for the annual period in which such tax payment is, ~~payments are~~ or should have been made, to the extent of the maximum allowed. Any insurer issuing policies insuring against loss or damage from the risks of fire, tornado, and certain casualty lines may take a credit against gross premium receipts tax for the excise tax(es) imposed by Sections 175.101 and 185.08, F.S.

2.a. When an insurer is required to file a corporate income tax return where the due date and extended due date are in different calendar years, the due date, or the extended date when a valid extension of time is made of said Florida return, determines the annual period in which such tax payments should have been made.

b. For example, a Florida corporate income tax return for tax year ending August 31, 2013 ~~2000~~, is due, without extension, on December 1, 2013 ~~2000~~. Since the Florida corporate income tax return is due on or before December 31, 2013 ~~2000~~, the insurer should include the amount of tax due on the return in computation of the corporate income tax ~~and emergency excise tax~~ credit on its 2013 ~~2000~~ insurance premium tax return (Form, ~~the 2000~~ DR-908, which is due March 1, 2014) ~~2001~~. If, however, the insurer extended the due date of the Florida corporate income tax return to June 1, 2014 ~~2001~~, and did not file and pay the return on or before December 31, 2013 ~~2000~~, the amount of tax due on the return is included in the computation of the corporate income tax ~~and emergency excise tax~~ credit on its 2014 ~~2001~~ insurance premium tax return (Form, ~~the 2001~~ DR-908, which is due March 1, 2015) ~~2002~~.

3. If a taxpayer is required to amend its corporate income tax liability under Chapter 220, F.S., the taxpayer shall amend its corresponding insurance premium tax return for the tax year in

which it claimed, or was entitled to claim the credit provided in Section 624.509(4), F.S., for the corporate income tax paid for that tax year. The taxpayer shall file an amended insurance premium tax return and pay additional tax due, if any, or claim a refund, if any, as provided in Section 624.50921, F.S.

(b) Salaries. Fifteen percent of the amount paid ~~after June 30, 1988~~, in salaries by the insurer to employees located or based in Florida may be credited against the net tax imposed by Section 624.509, F.S.

1. through 2. No change.

3. Salary credit shall be allowed only to the extent that:

a. The employees are not disqualified under Section 624.509(5), F.S.;

b. The employees are located or based in Florida; and

c. The insurer claiming the credit is the employer, as defined in Section 443.036(17), F.S., of the claimed employees, and said insurer satisfies the Chapter ~~60BB-2~~ 38B-2, F.A.C., filing requirements.

4. through 5. No change.

6. Net tax is the tax imposed under Section 624.509(1), F.S., after deductions for the corporate income tax imposed under Chapter 220, F.S., ~~the emergency excise tax imposed under Chapter 221, F.S.~~, and for gross premium receipts tax payable for firefighters' ~~firefighter's~~ pension trust funds under Section 175.101, F.S., and police officers' retirement funds under Section 185.08, F.S.

7. Salary Tax Credit Exceptions.

a. through c. No change.

d. ~~Effective July 1, 2006~~, Section 624.509(6)(b), F.S., provides that, to the extent that the

salary tax credit is limited by the 65 percent limitation, the excess of the salary tax credit that was available and exceeded the 65 percent limitation may be transferred to any insurer that is a member of that insurer's affiliated group if such excess salary tax credit is related to salaries and wages of employees whose place of employment is located within an enterprise zone created pursuant to Chapter 290, F.S. The amount of such excess salary tax credit transferred to all affiliates can not exceed 25 percent of such excess salary tax credit. An affiliated group of corporations that participates in a concurrent common paymaster arrangement as defined in Section 443.1216, F.S., is not eligible to use this provision. Any such transferred credits are subject to the same provisions and limitations set forth in Part IV, Chapter 624, F.S.

(c) Assessments Credited Against the Tax.

1. No change.

2. a. Insurers ~~Effective with the tax return filed for the 1997 taxable year, insurers~~ who have paid an assessment to the Florida Life and Health Insurance Guaranty Association (Association) may claim a credit for part of such assessment as provided in Section 631.72, F.S. Any credits not taken or utilized when available cannot be carried forward.

b. through c. No change.

(d) No change.

(e) Certified Capital Company (CAPCO) Credit.

1. through 2. No change.

3. Transfer/Sale of CAPCO Credit. ~~Effective May 26, 2005,~~ CAPCO credits may be sold.

A transfer or sale of a CAPCO credit will not affect the time schedule for taking the CAPCO credit. The claim of a transferee of a certified investor's unused CAPCO credit is permitted in the same manner and subject to the same provisions and limitations as the original certified investor.

Transfers or sales of a current year CAPCO credit (the amount of CAPCO credit available to be claimed in the current tax year), future year CAPCO credits (the amount of CAPCO credit available to be claimed in future years - excluding carryover CAPCO credits), and CAPCO credit carryovers (the amount of CAPCO credit carried over from prior years where the current year CAPCO credit at that time was not fully used) are allowed.

a. through b. No change.

4. No change.

(f) No change.

(4) The maximum allowable credit for corporate income tax, ~~emergency excise tax~~ and salaries cannot exceed sixty-five percent of the tax due under Section 624.509(1), F.S., after deducting the taxes paid under Sections 175.101 and 185.08, F.S., and assessments pursuant to Section 440.51, F.S.

(5) No change.

(6) Credits and deductions against the tax imposed by Sections 624.509 and 624.510, F.S., shall be taken in the following order:

(a) Deductions for assessments under Section 440.51, F.S.

(b) Credits for taxes paid under Sections 175.101 and 185.08, F.S.

(c) Credits for corporate income taxes paid under Chapter 220, F.S.

~~(d) Credits for the emergency excise tax paid under Chapter 221, F.S.~~

~~(d)~~(e) Salary tax credit.

~~(e)~~(f) All other available credits and deductions.

~~(f)~~(g) A refund will not be created by credits.

(7) through (9) No change.

Rulemaking Authority 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(4)(b), 1002.395(13) FS.
Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12,
213.05, 213.235, 220.183(3), 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509,
624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2),
626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2),
1002.395 FS. History–New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-
16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, 9-1-09, 4-26-10, 6-
6-11,_____.

12B-8.0012 Insurance Policy Surcharge; Rate and Computation.

(1) Every insurer must collect a surcharge of \$2 and \$4 from the policyholders of certain types of property insurance issued or renewed ~~on or after May 1, 1993. The proceeds will be deposited into the Emergency Management, Preparedness, and Assistance Trust Fund.~~

(2) The \$2 surcharge applies to each residential dwelling fire policy, homeowner's, mobile homeowner's, tenant homeowner's, condominium unit owner's, and any other type of insurance coverage on residential property, ~~issued or renewed on or after May 1, 1993.~~

(3) The \$4 surcharge applies to each commercial fire, commercial multiple peril, and business owner's property insurance policy ~~issued or renewed on or after May 1, 1993,~~ including marine policies if the coverage includes real property.

(4) through (14) No change.

Rulemaking Specific Authority 213.06(1) FS., Ch. 93-128, L.O.F. Law Implemented 624.5092 FS., Ch. 93-128, L.O.F. History–New 6-16-94, Amended 6-20-06,_____.

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) No change.

~~(3) The prescribed forms shall be sworn by one or more of the executive officers or attorney (if reciprocal insurer) of the insurer making the return, by signing the return after attesting to the following:~~

~~“Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. If prepared by a person other than the taxpayer, this declaration is based on all information of which the preparer has any knowledge [Section 92.525(1)(b), F.S.]” Tax returns and accompanying data will be maintained by the Department for purposes of analysis and audit.~~

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

Form Number	Title	Effective Date
(4) (5)(a) DR-907	Florida Insurance Premium Installment Payment (R. <u>01/12</u> 01/11)	<u>01/11</u> 01/11
(b) DR-907N	Instructions for Filing Insurance Premium Installment Payment (Form DR-907) (R. <u>01/12</u> 01/11)	<u>01/11</u> 01/11
(5) (6)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <u>2011</u> 2010 (R. <u>01/12</u> 01/11)	<u>01/11</u> 01/11
(b) DR-908N	Instructions for Preparing Form DR-908 Florida	

Insurance Premium Taxes and Fees Return

(R. 01/12 ~~01/11~~) _____ ~~01/11~~

~~(6)(7)~~ DR-350900 2011 ~~2010~~ Insurance Premium Tax Information
for Schedules XII and XIII, DR-908

(R. 01/12 ~~01/11~~) _____ ~~01/11~~

Rulemaking Authority 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, 624.4072, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 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, 631.72, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032, FS., Ch. 93-128, s. 29, Ch. 2005-280, L.O.F. History–New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 1-12-11, _____.

12B-8.006 State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount.

(1) through (4) No change.

~~(5) The surcharge imposed under Section 624.515(2), F.S., shall be deposited by the Department of Revenue, when received and audited, into the Fire College Trust Fund.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 213.05, 624.509, 624.510, 624.511, 624.515, 624.516 FS. History–New 2-3-80, Formerly 12B-8.06, Amended 4-10-91, 2-18-93, 12-

9-97, 7-31-03, 12-25-08,_____.

12B-8.007 Deposit of Certain Tax Receipts; Refund of Improper Payments.
Rulemaking Authority 20.21(5) FS. Law Implemented 624.521 FS. History–New 2-3-80,
Formerly 12B-8.07, Repealed_____.

12B-8.016 Retaliatory Provisions.

(1) through (2) No change.

(3)(a) Other items which shall be included in the retaliatory calculations are:

1. The excise taxes imposed under Sections 175.101 and 185.08, F.S., as well as comparable taxes in other states.

2. The State Fire Marshal Regulatory Assessment imposed under Section 624.515, F.S., as well as comparable assessments in other states.

3. The Florida corporate income tax (CIT) imposed under Chapter 220, F.S., ~~and the emergency excise tax imposed under Chapter 221, F.S.~~, as well as comparable taxes in other states. Insurers must ~~should~~ always use the prior year's taxable income and resulting CIT liability when calculating Florida's aggregate taxes. However, the insurer must ~~should~~ use the income from the taxable year applicable for calculating any CIT in its state of incorporation. Such taxable years may vary depending upon the individual state's taxing statutes. These taxable years may reflect the prior year's taxable income or the current year's taxable income.

4. through 6. No change.

7. ~~Any credits obtained prior to January 1, 1990, pursuant to the provisions of Section 624.5105, F.S.~~

(b) through (c) No change.

(4) ~~The~~ For the years 1997 and after, the amount of any deduction against premium taxes granted under Section 440.51, F.S., as well as comparable deductions in other states shall be added back to net premium taxes.

(5) ~~For purposes of this rule, the corporate income tax return (CIT) imposed under Chapter 220, F.S., and the emergency excise tax (EET) imposed under Chapter 221, F.S., is the amount of CIT and EET used to compute the corporate income and emergency excise tax credit in Rule 12B-8.001, F.A.C.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 213.05, 624.509, 624.5091, 624.5092 FS. History—New 3-25-90, Amended 4-10-91, 12-9-97, 3-23-98, 10-15-01, 6-1-09,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.003, 12C-1.051, AND 12C-1.343

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-1.003, F.A.C. (Definitions), define the term “written notice” to include any original or amended corporate income tax or franchise tax return, or any original or amended emergency excise tax return due prior to January 1, 2012.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to tax returns used by the Department in the administration of the corporate income tax and remove obsolete Form DR-703 (Dealer Questionnaire), which is no longer used by the Department.

The proposed amendments to Rule 12C-1.343, F.A.C. (Interest Computations): (1) update the provisions regarding interest, as provided in Section 220.807, F.S., on any underpayment or erroneous refund of the corporate income tax or franchise tax, or the emergency excise tax imposed prior to January 1, 2012, and the payment of interest on any overpayment of such taxes; (2) remove obsolete or unnecessary provisions; and (3) provide how to obtain the interest rates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective January 1, 2012, Section 22, Chapter 2011-76, L.O.F., repeals the emergency excise tax.

The purpose of the proposed amendments to Rule 12C-1.003, F.A.C. (Definitions), is to update the definition of the term “written notice” to include any original or amended corporate income tax or franchise tax return, or any original or amended emergency excise tax return due prior to January 1, 2012.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes to tax returns used by the Department in the administration of the corporate income tax, and to remove an obsolete form no longer used by the Department.

The purpose of the proposed amendments to Rule 12C-1.343, F.A.C. (Interest Computations), is to: (1) update the provisions regarding interest, as provided in Section 220.807, F.S., on any underpayment or erroneous refund of the corporate income tax or franchise tax, or the emergency excise tax imposed prior to January 1, 2012, and the payment of interest on any overpayment of such taxes, removing obsolete or unnecessary provisions; and (2) provide how to obtain the interest rates.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, pp. 2189-2190), to advise the public of the development of changes to Rule 12C-1.003, F.A.C. (Definitions), Rule 12C-1.051, F.A.C.

(Forms), and Rule 12C-1.343, F.A.C. (Interest Computations), and to provide that, if requested in writing, a rule development workshop would be held on August 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.003, F.A.C. (Definitions), Rule 12C-1.051, F.A.C. (Forms), and Rule 12C-1.343, F.A.C. (Interest Computations). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12C-1.003, F.A.C. (Definitions), Rule 12C-1.051, F.A.C. (Forms), and Rule 12C-1.343, F.A.C. (Interest Computations), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 2998-3001). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments. No comments were received.

In response to comments provided by the Joint Administrative Procedures Committee, dated November 3, 2011, technical changes were made to the Law Implemented of Rule 12C-1.051, F.A.C., to include Sections 212.08(5)(p) and 624.5105, F.S. In addition, a Notice of

Change will be published in the Florida Administrative Weekly to provide changes regarding the instructions for “Sales Factor” on Page 11, Form F-1120N, and instructions for “Sales” on Page 3, Form F-1065N, to provide that the term “sales” includes the items listed in paragraphs (a) through (e).

In addition, paragraph (b) of renumbered subsection (2) of Rule 12C-1.343, F.A.C., has been changed so that, when adopted, that paragraph will read:

(b) The term “written notice” is defined in subsection ~~Subsection~~ 12C-1.003(6), F.A.C., ~~defines “written notice” as an original return, an amended return, or a final determination of an audit liability.~~

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.003, 12C-1.051, AND 12C-1.343

12C-1.003 Definitions. Any term used in these rules shall have the meaning which is ascribed to it in Chapter 220, F.S., unless a clearly different meaning is indicated from the context in which the term is used. For the purposes of these rules:

(1) through (5) No change.

(6) “Written Notice” means any corporate income tax, franchise tax, or emergency excise tax return ~~the corporate income/franchise and emergency excise tax return~~ required by Section Sections 220.22, F.S., former Section and 221.04, F.S., or Rule 12C-1.022, F.A.C., amended returns (Form F-1120X or an amended F-1120 or F-1120A), or a final determination made pursuant to an audit.

Rulemaking Authority 213.06(1), 220.51 FS. Law Implemented 220.03, 220.13, 220.15, 220.16, 220.22, 220.63, 220.64 FS. History—New 10-20-72, Amended 10-8-74, 8-4-75, 9-6-76, 4-11-77, 12-18-83, Formerly 12C-1.03, Amended 12-21-88, 4-8-92, 5-17-94,_____.

12C-1.051 Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) DR-703	Dealer Questionnaire (R. 01/10)	06/10
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~~(2)(3)~~ No change.

(3)(4) (a) F-1065	Florida Partnership Information Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(4)(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(5)(6) (a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(b) F-1120N	F-1120 Instructions – Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, <u>2011</u> 2010 (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(6)(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and Emergency Excise Tax For Taxable Year Beginning on or after January 1, <u>2012</u> 2011 (R. <u>01/12</u> 01/11)	<u>01/11</u>
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(8) through (11) Renumbered (7) through (10) No change.

~~(11)(12)~~(a) No change.

(b) F-1193T Notice of Intent to Transfer A Florida Energy Tax
Credit (R. 01/12 ~~01/11~~) _____ ~~01/11~~

~~(12)~~(13) No change.

~~(13)~~(14) F-7004 Florida Tentative Income/Franchise and
Emergency Excise Tax Return and Application
for Extension of Time to File Return
(R. 01/12 ~~01/11~~) _____ ~~01/11~~

Rulemaking Authority 213.06(1), 220.192(7), 220.193(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, 220.19, 220.191, 220.192, 220.193, 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,_____.

12C-1.343 Interest Computations.

(1) ~~The Effective for taxable years ending on or after December 31, 1986~~, the interest rate
on any underpayment of tax or on any overpayment will be determined pursuant to Section
220.807, F.S.

~~(2) For taxable years ending on or after December 31, 1986, interest shall be allowed and~~

~~paid in accordance with the provision of Section 220.807, F.S., upon any overpayment.~~

~~(2)(3)(a) Interest~~ For taxable years ending on or after December 31, 1986, interest on any overpayment accrues ~~shall accrue~~ from the date the taxpayer files written notice with the Department. However, if an overpayment is refunded or credited within 3 months after the date upon which the taxpayer files written notice advising the Department ~~department~~ of the overpayment, no interest is ~~shall be~~ allowed on such overpayment.

~~(b) The term “written notice” is defined in subsection~~ Subsection 12C-1.003(6), F.A.C., defines “written notice” as an original return, an amended return, or a final determination of an audit liability.

~~(3)(4) Interest on deficiencies~~ For taxable years ending prior to December 31, 1986, ~~interest~~ accrues from the due date of the return without regard to extensions of time to file.

~~(4)(5) Erroneous refund.~~

~~(a) Any tax, interest or penalty which has been erroneously refunded for a taxable year ending before December 31, 1986, and which is recoverable by the Department, shall bear interest at the rate of 12 percent per year. Interest will be assessed from the date of payment of such refund to the date of recovery.~~

~~(b) Any tax, interest, or penalty which has been erroneously refunded for a taxable year ending on or after December 31, 1986, and which is recoverable by the Department~~ will ~~shall~~ bear interest at the rate provided in Section 220.807, F.S., and will be assessed from the date of payment of such refund to the date of recovery.

~~(c) Erroneous refund.~~ An amount will be considered to be an “erroneous refund” whenever a taxpayer is refunded any amount of tax finally determined to be due. ~~The interest provisions of Section 220.809(6), F.S., apply to an amount equal to the refund, regardless of~~

~~whether the basis for the refund is the same basis for which a deficiency is later assessed. Any additional tax, penalty, or interest should be assessed within the time limitations set forth in Section 95.091(3)(a)1.a., F.S., and interest computed pursuant to Section 220.809(1), F.S.~~

~~(5)(6)~~ The daily rate of interest computed under this rule shall use a year based on 365 days, and 366 days in a leap year. This daily rate will be carried out to nine decimal places.

~~(6)(7)~~ Interest Rates.

~~(a) The interest rate determined pursuant to Section 220.807, F.S., is subject to change on January 1st and July 1st of each year. Effective January 1, 1987, interest rates are computed every 6 months.~~

~~(b) The applicable interest rate for any period can be obtained by:~~

~~1. Accessing the Department's website at www.myflorida.com/dor/taxes; or,~~

~~2. Calling Taxpayer Services during regular business hours at (800) 352-3671.~~

~~3. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115 is published as a Tax Information Publication (TIP), by the Department. The applicable interest rate may also be obtained through the Department's Fax on Demand Document Retrieval System by dialing (850) 922 3676 from the handset of the fax machine.~~

~~Rulemaking Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.723, 220.807, 220.809 FS. History—New 4-2-78, Amended 12-21-88, 4-8-92, 5-17-94, 3-18-96,_____.~~

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), adopt, by reference, changes to the form used by the Department in the administration of the tax on governmental leasehold estates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

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 forms used by the Department in the administration of the tax on governmental leasehold estates and to provide the 2012 Valuation Factor Table used to calculate the amount of tax due.

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 16, 2011

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 29, 2011 (Vol. 37, No. 30, p. 2190), to advise the public of the development of changes 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 16, 2011. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 20, 2011

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 20, 2011, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-2.0115, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on September 9, 2011 (Vol. 37, No. 36, pp. 2757-2758).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 26, 2011

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 30, 2011 (Vol. 37, No. 39, pp. 3001-3002). A rule hearing was held on October 26, 2011, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one appeared to provide comments.

In response to comments provided by the Joint Administrative Procedures Committee, dated November 4, 2011, technical changes were made to the Law Implemented of Rule 12C-2.0115, F.A.C., to include Sections 199.052 (2005) and 199.103(7) (2005).

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 for <u>2012</u> 2011 Tax Year (R. <u>01/12</u> 01/11)	<u> </u> 01/11

(3) through (5) No change.

Rulemaking Authority 199.202(2), 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, _____.