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DEPARTMENT OF REVENUE

RULE NOS.:	RULE TITLES:
12-13.007	Grounds for Reasonable Cause for Compromise of Penalties
12-13.0075	Guidelines for Determining Amount of Compromise

PURPOSE AND EFFECT: The purpose of this rulemaking is to update the Department’s rules regarding compromise authority to address 2021 legislative changes contained in Chapter 2021-2, Laws of Florida. Section 5 of the chapter law amends Section 212.0596, to provide for the taxation of remote sales. Rules 12-13.007 and 12-13.0075 are being updated to allow penalty to be compromised based on reasonable cause on transactions involving remote sales of consumer goods when the person is not required to register as a dealer and has paid use tax and interest on the item. Section 11 of the chapter law amends Section 212.12, Florida Statutes, to eliminate the sales tax bracket system for calculating sales and use tax and replaces it with a rounding algorithm. Rule 12-13.0075 is amended to reflect this change by eliminating obsolete guidelines for compromising tax, interest, and penalty for the failure to use the bracket system.

SUMMARY: The proposed revision to Rule 12-13.007 replaces the term mail order sales with the term remote sales and is consistent with emergency rule 12ER21-3. The proposed revisions to Rule 12-13.0075 strike language related to the sales tax bracket system, which has been replaced by a rounding algorithm; replaces the term mail order sales with the term remote sales; and is consistent with emergency rule 12ER21-4.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.07(9)(c), 213.06(1), 213.21(5), (9) FS.

LAW IMPLEMENTED: 213.21, 213.24(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: April 21, 2022, at 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida 32399. If a meeting is requested in writing, members of the public can also attend electronically via webinar; participants will need to register for the webinar using the following link:
<https://attendee.gotowebinar.com/register/1664552174698348304>

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) through (10) No change.

(11) Reasonable cause shall be presumed to exist whenever a person who is not otherwise required to register as a dealer pursuant to Chapter 212, F.S., purchases consumer goods for personal use pursuant to a remote mail order sale and remits Florida use tax and interest, either voluntarily or in prompt response to a proposed assessment, assessment, or use tax billing issued by the Department.

(12) through (14) No change.

Rulemaking Authority 213.06(1), 213.21(5) FS. Law Implemented ~~213.05~~; 213.21 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-2-01, 10-29-13, XX-XX-XX.

12-13.0075 Guidelines for Determining Amount of Compromise.

(1) through (4) No change.

~~(5) Failure to Collect Sales Tax Based on the Tax Bracket System. When the Department determines that a dealer collected and remitted sales tax by rounding the tax due to the nearest whole cent and failed to apply the appropriate tax bracket system provided in section 212.12, F.S., the dealer will not be held liable for additional tax, penalty, and interest when the dealer:~~

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

~~(b) Timely reported and remitted all sales taxes collected on each transaction, as required by section 212.12, F.S.; and,~~

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

(6) through (9) renumbered (5) through (8) No change.

~~(9) (10) Remote Mail Order Sales.~~ When a taxpayer who is not otherwise required to be registered pursuant to Chapter 212, F.S., purchases consumer goods for personal use pursuant to a remote mail order sale and subsequently ~~promptly~~ remits the tax and interest in response to a use tax billing issued by the Department for such goods, or voluntarily remits such tax and interest prior to any billing, the Department will compromise all penalties.

~~(10) (11) Use Tax on Business Purchases.~~ When a taxpayer who is not otherwise required to be registered pursuant to chapter 212, F.S., purchases tangible personal property and imports same into the State of Florida for business purposes and subsequently ~~promptly~~ remits the tax and interest in response to a use tax billing issued by the Department for such tangible personal property, or voluntarily remits such tax and interest

prior to any billing, the Department will compromise all penalties.

(11) (12) Subsections (2) through (10) (11) are intended to provide examples and guidance to taxpayers and Department employees, but should not be construed to limit the compromise of penalties to only those circumstances described in such subsections. However, no compromise is authorized in situations involving fraud, willful negligence, or willful neglect on the part of the taxpayer.

Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS. Law Implemented 212.07(9), ~~212.12(14)~~, ~~213.05~~, 213.21, 213.24(3) FS. History—New 8-10-92, Amended 10-2-01, 10-29-13, XX-XX-XX.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Danielle Boudreaux

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 9, 2021

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