

Notice of Proposed Rule

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

12-21.203 Notification to Custodians; Custodial Responsibilities

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-21.003, F.A.C., is to bring the rule into compliance with Section 213.67, F.S.

SUMMARY: The proposed revisions to Rule 12-21.203, F.A.C., clarify the information provided on a Notice of Freeze to custodians exercising control or possession of a delinquent taxpayer's assets.

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: 213.06(1) FS.

LAW IMPLEMENTED: 206.18(4), 213.67, 443.1316 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: February 7, 2018, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Becky Avrett at (850)617-6799. 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: Tammy Miller, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6309

THE FULL TEXT OF THE PROPOSED RULE IS:

12-21.203 Notification to Custodians; Custodial Responsibilities.

(1) No change.

(2) The Notice of Freeze will state the Department's authority to initiate the garnishment procedure; specifically identify the delinquent taxpayer subject to garnishment; ~~specify the amount of tax, fee, surcharge, penalty, interest, administrative fees, and costs of collection owed by the taxpayer;~~ indicate the dates during which the freeze of assets is effective; specify the amount of the delinquent taxpayer's assets that must be frozen by the custodian; and describe the custodian's responsibilities pursuant to Section 213.67, F.S., and this rule.

(3) The Notice of Freeze informs the custodian of the following:

(a) No change.

(b) The Notice of Freeze is effective as of the date of its receipt, and remains in effect until the custodian receives a subsequent notice from the Department with further instructions ~~consents to a transfer or disposition~~, or until sixty (60) days have elapsed from the date of its receipt. ~~However, if~~ If the delinquent taxpayer contests the intended levy in circuit court or under Chapter 120, F.S., within the time period specified under Section 213.67, F.S.,

the Department will notify the custodian that the Notice of Freeze will remain in effect until a final resolution is achieved.

(c) No change.

(4) through (5) No change.

(6) If, during the time period prescribed by this notice, the delinquent taxpayer satisfies the delinquent liability ~~for taxes, fees, surcharges, penalties, interest, administrative fees, or costs of collection~~, the Department will issue a Notice of Release. Upon receipt of the Notice of Release, the custodian is no longer prohibited from transferring, returning, or disposing of any assets owned, controlled by, or owed to the taxpayer that are in the custodian's possession or control.

(7) No change.

Rulemaking Authority 213.06(1) FS. Law Implemented 206.18(4), 213.67, 443.1316 FS. History--New 6-16-93, Amended 3-31-99, 6-28-00, 3-12-14,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tammy Miller

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 2, 2017