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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

January 26, 2018

Ms. Kimberly Berg
Agency Rules Coordinator
Department of Revenue
Post Office Box 5906
Tallahassee, Florida 32314-5906

**RE: Department of Revenue
Rules 12-26.003, .004, .008, and .009**

Dear Ms. Berg:

I have reviewed the above-referenced rule and offer the following comments for your consideration and response:

- 12-26.003(3)(a)2.:** Although there are no proposed amendments to this subparagraph, an exception to the statutory direction that refunds for communications services taxes be filed with the dealer directly, as opposed to the Department, is created. Please review and provide the Department's authority for this provision.
- 12-26.003(3)(b)2.:** Due to the proposed amendments to rule 12-26.003(3)(b)1., Florida Administrative Code, it appears that the content of this subparagraph is now duplicative. Please review and revise as necessary.
- 12-26.003(4)(e):** In setting forth the required elements for a complete refund application, this paragraph requires information and documentation to enable the Department to determine the eligibility for refund including the amount that may be due. Subsequently in rule 12-26.008, the Department has incorporated instruction forms that detail, with specificity, the documents

required to be submitted to meet the above standards. It appears that a reference to these incorporated instructions that implement this standard should be provided to direct affected parties to the information that the Department will be seeking in its assessment of completeness of an application. Please review and advise.

12-26.004(2)(c)2.: Please update the form title reference to coincide with the updated title.

12-26.008: Law Implemented

Please review whether the following citations represent statutes whose content is actually implemented by the content of this rule: sections 199.183, 202.125, 206.97, 206.9815, 206.9941, 212.02(15)(a), (19), 212.05(1)(a)1.b., 212.06(5)(a)1., (7), 212.07(1), 212.09, 212.11(4)-(5), 212.12(4), and 212.183, Florida Statutes.

Additionally, the citation to section 199.218(5), Florida Statutes, should be updated in light of revisions to the structure of that statute.

12-26.008(2): Incorporated Material—Form DR-26, Application for Refund

Section 2: A reference is made to the potential requirement, if applicable, to form DR-835. A reference should be provided to the incorporative rule for that form so that the applicable version can be ascertained.

12-26.008(3): Incorporated Material—Form DR-26S, Application for Refund—Sales and Use Tax

Section 2: Please see the comment above for Form DR-26.

12-26.008(4): Incorporated Material—Form DR-370026, Agreement to Audit Refund Claim

Section 2: Please see the comment above for Form DR-26.

12-26.008(5): A version date of this form is missing in the incorporative language of the rule text. Additionally, the effective date of 01/18 of this form is misleading if utilized separately from setting forth a version date of form as the content of the form will be effective upon adoption of the amendments for its incorporation, which will not occur in 01/18. Please review and revise as is necessary.

12-26.008(6): Please see the comments above for rule 12-26.008(5).

Incorporated Material—Form DR-26SN, Instructions—Application for Refund, Sales and Use Tax

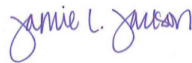
Page 2, Equipment, Machinery, and Other Materials for Renewable Energy Technologies: The section pertaining to this type of tax refund sets forth a due date of 6 months from the date of the written certification issuance by the Department of Agriculture and Consumer Services. What is the Department's authority for this exception to the standard 3-year refund deadline? Please review and advise.

Page 3, Florida Neighborhood Revitalization Program: To satisfy the documentation requirement for this tax refund the Department has required a copy of the original application as well as the specific information and documentation required on Form DR-26RP. It appears that this form setting forth specific other requirements specific to the refund process should be incorporated by reference as the Department incorporated Form-RAO. Please review and advise.

12-26.008(7): Please see the comments above for rule 12-26.008(5).

If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Jamie L. Jackson
Chief Attorney