



Florida Department of Revenue
Office of the Executive Director

Leon M. Biegalski
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

December 19, 2018

Mr. Ernie Reddick, Chief
Florida Department of State
R.A. Gray Building, Mail Station 22
500 S. Bronough Street
Tallahassee, Florida 32399-0250

Re: Certification of Department of Revenue Rules

Dear Mr. Reddick:

The following Department of Revenue Rule is presented for certification:

Rule 12A-1.007

The following persons may be contacted regarding these rule certifications:

Tammy Miller 717-6309 Tammy.Miller@floridarevenue.com

Florida Department of Revenue
Building One, Room 2600
2450 Shumard Oak Blvd.
Tallahassee, Florida 32399-0100

Sincerely,

Kimberly Berg
Agency Rules Coordinator

Attachments

FILED
2018 DEC 19 AM 9:43
TALLAHASSEE, FLORIDA

CERTIFICATION OF DEPARTMENT OF REVENUE
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

FILED
2019 DEC 19 AM 9:43
TALLAHASSEE-FLORIDA

I hereby certify:

☒ (1) That all statutory rulemaking requirements of chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

☒ (2) That there is no administrative determination under section 120.56(2), F.S., pending on any rule covered by this certification; and

☒ (3) All rules covered by this certification are filed within the prescribed time limitations of section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by section 120.54(3)(a), F.S.; and

☐ (a) Are filed not more than 90 days after the notice; or

☐ (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

☒ (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

☐ (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

☐ (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the

ombudsman in the Executive Office of the Governor.

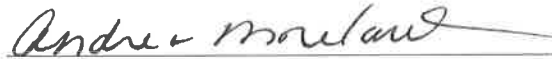
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

12A-1.007

Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____
(month) (day) (year)



Signature, Person Authorized to Certify Rules

Deputy Executive Director

Title

2
Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE
DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

☒ All rules covered by this certification are not rules the violation of which would be minor violation pursuant to Section 120.695, F.S.

☐ The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

None

Rules covered by this certification:

Rule 12A-1.007, F.A.C.


Signature of Agency Head

Executive Director

Title

FILED
2018 DEC 19 AM 9:13
TALLAHASSEE, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.007

FILED
2010 DEC 19 AM 9:16
TALLAHASSEE, FLORIDA

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

(1) through (7) No change.

(8) Motor Vehicles.

(a) The sale in this state by a motor vehicle dealer of a new or used motor vehicle to a resident of another state of the United States is taxable in an amount equal to the sales tax which would be imposed on such sale in the purchaser's state of residence. A list of the sales tax rates applicable in other states and the District of Columbia is available, without cost, by one or more of the following methods: 1) writing Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; or, 2) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 3) calling the Forms Request Line during regular office hours at (850)488-6800; or, 4) downloading selected forms from the Department's website at www.floridarevenue.com/forms. However, such tax shall not exceed the tax that would otherwise be imposed by Chapter 212, F.S. At the time of the sale the purchaser shall execute a notarized statement of his or her intent to license the vehicle in his or her state of residence within 10 days from the date of purchase and:

1. through 3. No change.

4. The Department prescribes Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida, incorporated by reference in Rule 12A-1.097, F.A.C., to be completed by the purchaser and furnished to the selling dealer or appropriate sales tax collection agency.

(b) through (m) No change.

(9) through (22) No change.

(23) Motor Vehicle Warranty Repurchases or Replacements (Lemon Law).

(a) The following provisions shall apply when a manufacturer pursuant to the provisions of Section 681.104, F.S., replaces or repurchases a motor vehicle:

1. No change.

2.a. through c. No change.

d. The amount of refund to the manufacturer shall be in an amount which results when the state sales tax percentage plus any county discretionary surtax is multiplied by the sum which remains when the reasonable offset for use is subtracted from the sales price of the vehicle.

(I) Example: The total sales price of the vehicle less trade-in allowance is \$18,000. The reasonable offset for use of 2,000 miles out of projected 120,000 miles ($2,000 \times 18,000$ divided by 120,000) equals \$300. Sales tax of 6 percent times \$17,700 (\$18,000 minus \$300) represents the amount of sales tax refunded to the manufacturer of \$1,062.

(II) Example: The sales price of the vehicle is \$10,000. The reasonable offset for use of 48 miles out of projected 120,000 miles equals \$4 ($48 \times 10,000$ divided by 120,000). Sales tax of 3 percent (sales tax rate of purchaser's resident state) times 9,996 (\$10,000 minus \$4) equals \$299.88, which sum represents the amount of sales tax refunded to the manufacturer.

(III) Example: The sales price of the vehicle is \$8,000. The reasonable offset for use of 600 miles out of projected 120,000 miles equals \$40 ($600 \times 8,000$ divided by 120,000). Sales tax of 7 percent (6 percent plus 1 percent county discretionary surtax) times \$5,000 (statutory limit on which county discretionary surtax is imposed) equals \$350. The remainder of the sales price of \$2,960 (\$8,000 minus \$5,000 minus \$40) times 6 percent equals \$177.60. The total of \$527.60 (\$350 plus \$177.60) represents the amount of sales tax refunded to the manufacturer.

(b) No change.

(24) through (28) No change.

Rulemaking Authority 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (4), (10), (14), (15), (16), (19), (20), 212.03, 212.05(1), 212.06(1), (2), (4), (5), (7), (8), (10), (12), 212.0601, 212.07(2), (7), 212.08(5)(i), (7)(t), (aa), (ee), (10), (11), 212.12(2), (12), 213.255(1)-(2), (3), 213.35, 215.26(2), 681.102(13)-(14), (20)-(21), 681.104 FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, ~~4-17-03~~ 9-28-04, 1-11-16,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.007

FILED
2018 DEC 19 AM 9:44
TALLAHASSEE, FLORIDA

SUMMARY OF PROPOSED RULE

The proposed amendments correct the title of a form and clarify that all taxes paid by and refunded to a customer who has a vehicle repurchased under Chapter 681, F.S., are refundable to the manufacturer making the refund.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12A-1.007, F.A.C., is: to correct the title provided for Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida, incorporated by reference in Rule 12A-1.097, F.A.C., and to clarify information regarding sales tax and surtax due to be refunded to the consumer on a repurchased motor vehicle under Chapter 681, F.S., Motor Vehicle Warranty Enforcement Act.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

NOVEMBER 16, 2017

A Notice of Proposed Rule Development was published in the Florida Administrative Register on November 2, 2017 (Vol. 43, No. 213, pp. 4943-4944), to advise the public of the proposed changes to Rule 12A-1.007, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held on November 16, 2017. No request was received, and no workshop was held. The Department received public comments requesting changes to Rule 12A-1.007, F.A.C. The version included in this package incorporates the

requested changes.

SUMMARY OF PUBLIC MEETING

JUNE 13, 2018

The Governor and Cabinet, sitting as head of the Department of Revenue, met on June 13, 2018, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.007, F.A.C. A notice for the public hearing was published in the Florida Administrative Register on May 30, 2018 (Vol. 44, No. 120, pp. 2885-2886).

SUMMARY OF RULE HEARING

JULY 11, 2018

A Notice of Proposed Rule was published in the Florida Administrative Register on June 20, 2018 (Vol. 44, No. 120, pp. 2884-2885), to advise the public of the proposed changes to Rule 12A-1.007, F.A.C., and to provide that, if requested in writing, a rule hearing would be held on July 11, 2018. No request was received, and no hearing was held.

Written comments were received from the staff of the Joint Administrative Procedures Committee. A notice of correction was published in the Florida Administrative Register on July 11, 2018, (Vol. 44, No. 134, p. 3230), providing requested changes. The change to Rule 12A-1.007, F.A.C., added a missing date from the history of previous revisions.

SUMMARY OF PUBLIC MEETING

AUGUST 14, 2018

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 14, 2018, adopted the proposed changes to Rule 12A-1.007, F.A.C., and approved the filing and certification of the changes with the Department of State. A notice for the public hearing was published in the Florida Administrative Register on August 6, 2018 (Vol. 44, No. 152, pp. 3648 -3649). Following this meeting, the Department determined that an earlier draft version of the rule had inadvertently been presented to the Governor and Cabinet for adoption. The correct version had been noticed for a rule hearing to be held on July 11, 2018; that version, with the technical change made

pursuant to the Joint Administrative Procedures Committee comment for which a notice of correction was published, is being presented for adoption today.

SUMMARY OF PUBLIC MEETING

DECEMBER 4, 2018

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 4, 2018, adopted the proposed changes to Rule 12A-1.007, F.A.C., and approved the filing and certification of the changes with the Department of State. A notice for the public meeting was published in the Florida Administrative Register on November 20, 2018 (Vol. 44, No. 226, pp. 5300-5301).