



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

May 25, 2022

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

Dear Danielle. Boudreaux:

Your adoption package for Rules 12A-15.001, .002, .003, .008, .012, .014 was received, electronically, by the Florida Department of State, Administrative Code and Register at 12:04 p.m. on May 25, 2022. After review, it appears that the package meets statutory requirements and those of Rule 1-1.010, F.A.C. and is deemed filed for adoption at the time received, as indicated above. The effective date is June 14, 2022.

Sincerely,

Anya C. Owens  
Program Administrator

ACO/mas

**Swain, Margaret A.**

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**From:** Danielle Boudreaux <Danielle.Boudreaux@floridarevenue.com>  
**Sent:** Wednesday, May 25, 2022 12:04 PM  
**To:** RuleAdoptions  
**Cc:** Janet Young; Jennifer Ensley; Tonya Fulford  
**Subject:** Department of Revenue Rule Certifications  
**Attachments:** 12A-1\_Certification Packet\_052522.pdf; 12A-15\_Certification Packet\_052522.pdf; 12A-1.0015 and 1.097\_Certification Packet\_052522.pdf; 12A-1\_Final Rule Text\_05252022.docx; 12A-15\_Final Rule Text\_05252022.docx; 12A-1.0015 and 1.097\_Final Rule Text\_05252022.docx

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EMAIL RECEIVED FROM EXTERNAL SOURCE

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The attachments/links in this message have been scanned by Proofpoint.

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Good afternoon,

Attached are the rule certification packets for Chapters 12A-1 and 12A-15. There are two separate packets for 12A-1 since the Notices of Proposed Rule were published separately.

Please let me know if you have any questions.

Thank you,



**Danielle Boudreaux**  
*Revenue Program Administrator, Rulemaking and  
Legislative Analysis*  
Technical Assistance and Dispute Resolution  
Florida Department of Revenue  
(850) 717-7082  
[danielle.boudreaux@floridarevenue.com](mailto:danielle.boudreaux@floridarevenue.com)

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 Representative Wyman Duggan  
 Representative Yvonne Hayes Hinson  
 Representative Thomas Patterson "Patt" Maney  
 Representative Angela "Angie" Nixon  
 Representative Anthony Sabatini

## JOINT ADMINISTRATIVE PROCEDURES COMMITTEE



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 COORDINATOR  
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### CERTIFICATION

**Department:** Department of Revenue  
**Agency:** Sales and Use Tax  
**Rule No(s):** 12A-15.001, .002, .003, .008, .012, .014  
**File Control No:** 186496

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certifies that:

- ☐ There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- ☒ The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- ☐ The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 5/25/2022

This certification expires after: 6/1/2022

Certifying Attorney: Jamie Jackson

#### NOTE:

- ☐ *The above certified rules include materials incorporated by reference.*
- ☒ *The above certified rules do not include materials incorporated by reference.*



**Florida Department of Revenue**  
*Office of the Executive Director*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

May 25, 2022

Ms. Anya Owens, 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 Ms. Owens:

The following Department of Revenue Rules are presented for certification:

12A-15.001	Scope of Rules
12A-15.002	Surtax Brackets
12A-15.003	Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax
12A-15.008	Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax
12A-15.012	Alcoholic and Malt Beverages
12A-15.014	Transition Rule

The following persons may be contacted regarding these rule certifications:

Danielle Boudreaux	717-7082	danielle.boudreaux@floridarevenue.com
Jennifer Ensley	717-7659	jennifer.ensley@floridarevenue.com

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

Sincerely,

Janet Young  
Agency Rules Coordinator

Attachments

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

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.

The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

12A-15.001

12A-15.003

12A-15.012

12A-15.002

12A-15.008

12A-15.014

Under the provision of section 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

\_\_\_\_\_  
5  
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 a 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.:

Rule No(s).

Rules covered by this certification:

Rule No(s).

12A-15.001

12A-15.003

12A-15.012

12A-15.002

12A-15.008

12A-15.014

  
\_\_\_\_\_  
Signature of Agency Head

Executive Director

\_\_\_\_\_  
Title



STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
CHAPTER 12A-15, FLORIDA ADMINISTRATIVE CODE  
DISCRETIONARY SALES SURTAX

AMENDING RULES 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014

REPEALING RULE 12A-15.002

SUMMARY OF PROPOSED RULES

The proposed revisions to Rule 12A-15.001 strike a reference to the sales tax bracket system and adds a reference to Form DR-15DSS, which provides the discretionary sales surtax rates for all Florida counties and is updated annually. Rule 12A-15.002 is proposed for repeal as the 2021 legislature replaced the sales tax bracket system with a rounding algorithm. The proposed revisions to Rule 12A-15.003 remove obsolete language related to mail order sales and the collection of discretionary sales surtax; add language to include the sale of tangible personal property sold through a marketplace or by remote sale; replace the term mail order sales with remote sales; and is consistent with emergency rule 12AER21-15. The proposed revision to Rule 12A-15.008 replaces the term mail order sales with the term remote sales and is consistent with emergency rule 12AER21-16. Revisions to Rule 12A-15.012 address 2021 legislative changes to the provisions restricting dealers from absorbing part of or all sales tax in addition to the removal of obsolete language. The proposed revision to Rule 12A-15.014 replaces the commercial rental tax rate with a statutory cross reference, which will allow the rule to remain current when the tax rate is reduced when the balance of the Unemployment Compensation Trust Fund exceeds the amount specified in section 13 of Chapter 2021-2, Laws of Florida.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of this rulemaking is to update the Department's rules relating to discretionary sales surtax to address 2021 legislative changes contained in Chapter 2021-2, Laws of Florida, and Chapter 2021-31, Laws of Florida. Revisions to Rule 12A-15.001 and the proposed repeal of Rule 12A-15.002 remove reference to the sales tax bracket system, which has been replaced by a rounding algorithm (Chapter 2021-2, § 11, L.O.F.). Revisions to Rules 12A-15.003 and 12A-15.008 implement changes regarding the taxation of marketplace sales and remote sales

(Chapter 2021-2, L.O.F.). Effective July 1, 2021, marketplace providers and persons who made a substantial number of remote sales in the previous calendar year are required to electronically register with the Department, collect sales tax, and electronically remit collected taxes. Revisions to Rule 12A-15.012 address when a dealer may advertise or hold out to the public that they will pay all or part of the sales tax imposed by Chapter 212 (Chapter 2021-31, § 19, L.O.F.). Revisions to Rule 12A-15.014 replaces the commercial rent tax rate with a statutory citation to capture the rate change which will become effective when the Unemployment Compensation Trust Fund reaches a set dollar amount pursuant to Section 14., Chapter 2021-2, L.O.F.

#### FEDERAL COMPARISON STATEMENT

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

#### SUMMARY OF RULE DEVELOPMENT WORKSHOP

September 23, 2021

A Notice of Rule Development was published in the *Florida Administrative Register* on September 9, 2021 (Vol. 47, No. 175, pp. 4123-4124), to advise the public of the proposed changes to Rules 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014, F.A.C., the proposed repeal of Rule 12A-15.002, and to provide that, if requested in writing, a rule development workshop would be held. A rule development workshop was requested and held on September 23, 2021. No comments were received at the workshop regarding these rules, and no written comments were received.

#### SUMMARY OF PUBLIC MEETING

March 29, 2022

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 29, 2022, and approved the publication of the Notice of Proposed Rule for changes to Rules 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014, F.A.C., as well as approval to file and certify the rules with the Secretary of State pursuant to s. 120.54(3)(e)1., F.S., if the substance of the proposed rules remain unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S. A notice for the public meeting was published in the *Florida Administrative Register* on March 18, 2022 (Vol. 48, No. 54, p. 1047).

## SUMMARY OF RULE HEARING

April 21, 2022

A Notice of Proposed Rule was published in the *Florida Administrative Register* on March 31, 2022 (Vol. 48, No. 63, pp. 1227-1230), to advise the public of the proposed changes to Rules 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014, F.A.C., and to provide that, if requested in writing, a rule hearing would be held on April 21, 2022. No request was received, and no hearing was held. No written comments were received by the Department.

A written comment was received from the staff of the Joint Administrative Procedures Committee. A notice of change was published in the *Florida Administrative Register* on May 2, 2022 (Vol. 48, No. 87, p. 1866), providing the requested change. The change to Rule 12A-15.012, F.A.C, replaced a cross-reference to Rule 12A-1.112, which was withdrawn, with a statutory cross-reference. The final rule language presented for adoption today reflects this change.

No substantive changes were made to Rules 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014, F.A.C., after the Cabinet meeting on March 29, 2022, where the Governor and Cabinet approved the publication of the Notice of Proposed Rulemaking and subsequent adoption of the proposed rules if the substance of the proposed rules remained unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(c)2., F.S.

STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
CHAPTER 12-15, FLORIDA ADMINISTRATIVE CODE  
DISCRETIONARY SALES SURTAX  
AMENDING RULES 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014  
REPEALING RULE 12A-15.002

**12A-15.001 Scope of Rules.**

(1) No change

(2) The list of counties levying the surtax is subject to frequent revision. An up-to-date listing of counties levying the surtax is available, without cost, by one or more of the following methods: 1) downloading Form DR-15DSS, Discretionary Sales Surtax information, updated annually, the appropriate Sales Tax Bracket Cards from the Department's website at ~~www.floridarevenue.com/taxes/rates~~; or, 2) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112, ~~or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).  
*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.054(2), (4) FS. History--New 12-11-89, Amended 11-16-93, 11-1-05, 06-14-22.*

The following rule is hereby repealed:

**12A-15.002 Surtax Brackets.**

~~The Department has prepared, for public use, rate tables and information to provide the sales tax effective brackets for counties imposing a discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Rate Table from the Department's website at [www.floridarevenue.com/taxes/rates](http://www.floridarevenue.com/taxes/rates); or, 2) calling the Department at (850)488-6800, Monday through Friday (excluding holidays); 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 Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).~~

*Rulemaking Authority 212.12(11), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9), (10), (11) FS. History—New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, 11-1-05, 6-1-09, Repealed 06-14-22.*

#### **12A-15.002 Surtax Brackets.**

*Rulemaking Authority 212.12(11), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9), (10), (11) FS. History—New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, 11-1-05, 6-1-09, Repealed 06-14-22.*

#### **12A-15.003 Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax.**

(1) through (3) No change

(4) SALES OF TANGIBLE PERSONAL PROPERTY.

(a) A dealer who makes sales of tangible personal property, including tangible personal property sold through a marketplace or by remote sale, is required to collect surtax when the taxable item of tangible personal property is delivered within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the delivery occurs, whether the delivery is made directly by the dealer or by a manufacturer or wholesaler who delivers the property to the purchaser on behalf of the dealer. When the item of tangible personal property is delivered within a county not imposing a surtax, the dealer is not required to collect surtax.

1. through 3. No change

(b) through (c) No change

~~(5) MAIL ORDER SALES.~~

~~(a) A dealer who makes mail order sales, as defined in rule 12A-1.103, F.A.C., is required to collect surtax at the rate imposed by the surtax county where the taxable item of tangible personal property is delivered when:~~

~~1. The mail order is placed through a dealer's location within a surtax county and received by the dealer in another state; and,~~

~~2. The item is delivered to a location within a surtax county.~~

~~(b)1. Example: A multi-state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail-order division at the dealer's location in County A (a county imposing a 1% surtax). The out-of-state mail-order division ships the merchandise to purchaser's residence in County B (a county not imposing a surtax). Although the company has stores within a surtax county and the order is placed through the dealer's location within a surtax county, the item is not delivered within a surtax county. The selling dealer is not required to collect surtax.~~

2. Example: A multi-state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail-order division at the dealer's location in County A (a county imposing a 1% surtax). The mail-order division ships the item to a residence in County B (a county imposing a 1/2% surtax). The transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the merchandise at the rate of 6 1/2% (6% state tax and 1/2% surtax).

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

(9) ~~(10)~~ USE TAX.

(a) Any person who is not required to be a registered dealer but who owes use tax on tangible personal property purchased out-of-state, in another country, or through a remote sale ~~mail-order firms or the Internet~~ is not required to pay surtax when paying the applicable use tax to the Department.

(b) through (e) No change

*Rulemaking Authority 212.0596(3), 212.18(2), 213.06(1) FS. Law Implemented 212.04(1), 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.06(1), (2), (4), (6), (8), (10), 212.07(8), 212.18(3), 212.183 FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01, 10-2-01, 4-17-03, 5-28-06, 06-14-22.*

## **12A-15.008 Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax.**

(1) LUMP SUM, COST PLUS, FIXED FEE, OR GUARANTEED PRICE CONTRACTS.

(a) No change

(b) A contractor or subcontractor who is not required to be a registered dealer and who owes use tax on taxable items of tangible personal property purchased out-of-state, in another country, or through a remote sale ~~mail-order~~

~~firms or the Internet~~ for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract is not required to pay surtax when paying the applicable use tax to the Department.

(c) No change

(2) through (4) No change

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(4), (16), (20)~~, 212.054, 212.055, 212.06(1), 212.14(5) FS. History—New 12-11-89, Amended 5-12-92, 8-10-92, 11-16-93, 3-20-96, 4-17-03, 06-14-22.*

#### **12A-15.012 Alcoholic and Malt Beverages.**

(1)(a) Alcoholic beverages, including beer, ale, and wine, are subject to surtax at the rate imposed by the county where the business is located.

(b) Except as provided in Section 212.07(4), F.S., a dealer will ~~The dealer shall~~ add the sales tax, plus the applicable surtax, to the sales price of each sale, and may not ~~The dealer is not permitted to~~ advertise or hold out to the public in any manner that the dealer will pay all or absorb ~~pay all or absorb~~ any part of the sales tax or surtax due or that the dealer will relieve the purchaser from the payment of sales tax or surtax.

(b) renumbered (c) No change

(2) through (3) No change

*Rulemaking Authority ~~212.07(2)~~, 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(16)~~, 212.054, 212.055, 212.07(2), (4), 212.08(4), ~~212.12(11), 212.15(1), (4)~~ FS. History—New 12-11-89, Amended 3-20-96, 6-19-01, 11-1-05, 6-1-09, 06-14-22.*

#### **12A-15.014 Transition Rule.**

(1) No change

(2) Commercial Rentals. Prepayments of rents to avoid increased tax rate are prohibited. Tenants with leases in effect prior to the effective date of any such surtax which provide for payments to be made on and after the effective date of any such surtax, cannot avoid tax by prepaying rent prior to the effective date of the surtax. Commercial rentals will be taxed pursuant to Section 212.031, F.S., at 5.5% ~~at 5.5%~~ plus the surtax rate for all rentals due on or after the effective date of any such surtax.

(3) No change

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.031, 212.05(1), 212.05011, 212.054, 212.055*  
*FS. History—New 12-11-89, Amended 11-16-93, 3-20-96, 10-2-01, 4-17-03, 1-17-18, 1-8-19, 12-12-19, 06-14-22.*