



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

July 17, 2024

Martha Gregory
Revenue Program Administrator
Department of Revenue
2450 Shumard Oak Blvd., Bldg 1
Tallahassee, FL 32399

Dear Martha Gregory:

Your adoption package for Rules 12A-1.070 and .097, F.A.C. was received, electronically, by the Florida Department of State, Administrative Code and Register at 9:02 a.m. on July 17, 2024. 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 August 6, 2024.

Sincerely,

Matthew J. Hargreaves
Administrative Code and Register Director

MJH/al

From: [Tonya Fulford](#)
To: [RuleAdoptions](#)
Cc: [Martha Gregory](#); [Tammy Miller](#); [Brinton Hevey](#); [Janet Young](#); [Tonya Fulford](#)
Subject: Department of Revenue Rule Certification - 12A-1.070 and 12A-1.097
Date: Wednesday, July 17, 2024 9:02:27 AM
Attachments: [image001.png](#)
[image003.png](#)
[12A-1_CertificationPkt_07.17.24.pdf](#)
[12A-1.070 .097 Rule Text.doc](#)
Importance: High

EMAIL RECEIVED FROM EXTERNAL
SOURCE

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

Good morning,

Attached are the rule certification packet for Rules 12A-1.070 and 12A-1.097 with the final language in word format.

Please let me know if you have any questions.

Tonya L. Fulford
Operations Review Specialist
Technical Assistance
Florida Department of Revenue
(850) 717-6799
tonya.fulford@floridarevenue.com
[unsecure]

NOTIFICATION TO
RECIPIENTS: The subject
line of this email may
indicate that this email has
been sent unsecure. This is a

default setting which in no way indicates that this communication is unsafe, but rather that the email has been sent unencrypted in clear text form. Revenue does provide secure email exchange. Please contact us if you need to exchange confidential information electronically.

If you have received this email in error, please notify us immediately by return email. If you receive a Florida Department of Revenue communication that contains personal or confidential information, and you are not the intended recipient, you are prohibited from using the information in any way. All record of any such communication (electronic or otherwise) should be destroyed in its entirety.

Cautions on corresponding with Revenue by email: Under Florida law, emails received by a state agency are public records. Both the message and the email address it was sent from (excepting any information that is exempt from disclosure under state law) may be released in response to a public records request.

Internet email is not secure and may be viewed by someone other than the person you send it to. Please do not include your social security number, federal employer identification number, or other sensitive information in an email to us.



Senator Blaise Ingoglia, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Colleen Burton
Senator Erin Grall
Senator Rosalind Osgood
Senator Darryl Ervin Rouson
Representative Shane G. Abbott
Representative Jervonte "Tae" Edmonds
Representative Alina Garcia
Representative Yvonne Hayes Hinson
Representative Joel Rudman, M.D.



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

CERTIFICATION

Department: Department of Revenue
Agency: Sales and Use Tax
Rule No(s): 12A-1.070, .097
File Control No: 193046

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: 7/17/2024

This certification expires after: 7/24/2024

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

July 17, 2024

Matthew Hargreaves, 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. Hargreaves:

The following Department of Revenue Rules are presented for certification:

12A-1.070, F.A.C. Leases and Licenses of Real Property; Storage of Boats and Aircraft
12A-1.097, F.A.C. Public Use Forms

The following persons may be contacted regarding these rule certifications:

Martha Gregory	717-6041	martha.gregory@floridarevenue.com
Brinton Hevey	717-7754	brinton.hevey@floridarevenue.com

Florida Department of Revenue
2450 Shumard Oak Blvd.
Bldg. One, Room 1-2600
Tallahassee, Florida 32399-0100

Sincerely,

p.p. 

/by Alec Yarger, Legislative and Cabinet Services Director

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-1.070

12A-1.097

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

General Counsel

Title

4

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-1.070, F.A.C.

12A-1.097, F.A.C.



Signature of Agency Head

Executive Director

Title

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.070 AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.070, F.A.C., reflect the decrease in the state sales tax rate from 4.5% to 2.0% on the rental, lease, or license to use, occupy, or enter upon any real property (commercial rental) and simplify the examples for computing the tax due. The proposed amendment to Rule 12A-1.097, F.A.C., updates forms DR-7N, DR-15EZ, and DR-15N to reflect the decrease in the state sales tax rate on commercial rental.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-1.070, F.A.C., are necessary to incorporate the decrease in the state tax rate on the rental, lease, or license to use real property, as provided in ss. 13 and 14, Ch. 2021-2, L.O.F. The proposed amendments to Rule 12A-1.097, F.A.C., are necessary to update forms DR-7N, DR-15EZ, and DR-15N to reflect the decrease in the state sales tax rate on commercial rental.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

May 2, 2024

A Notice of Proposed Rule Development was published in the *Florida Administrative Register* on April 18, 2024 (Vol. 50, No. 77, p. 1399), to advise the public of the proposed changes to Rules 12A-1.070 and 12A-1.097, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held on May 2, 2024. No

written timely request for a workshop was received by the Department, and no workshop was held. No written comments were received by the Department.

SUMMARY OF PUBLIC MEETING

June 12, 2024

The Governor and Cabinet, sitting as head of the Department of Revenue, met on June 12, 2024, and approved the publication of the Notice of Proposed Rule for Rules 12A-1.070 and 12A-1097, F.A.C., as well as approval to file and certify the rules with the Secretary of State pursuant to section 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 section 120.54(3)(e)2., F.S. A notice for the public meeting was published in the *Florida Administrative Register* on June 6, 2024 (Vol. 50, No. 111, pp. 1971-1972).

SUMMARY OF RULE HEARING

July 9, 2024

A Notice of Proposed Rule was published in the *Florida Administrative Register* on June 13, 2024 (Vol. 50, No. 116, pp. 2031-2033), to advise the public of the proposed changes to 12A-1.070 and 12A-1.097, F.A.C., and to provide that, if requested in writing, a rule hearing would be held on July 9, 2024. No request was received, and no hearing was held. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.070 AND 12A-1.097

12A-1.070 Leases and Licenses of Real Property; Storage of Boats and Aircraft.

(1) through (3) No change.

(4)(a) through (d) No change.

(e) Utility charges paid by a tenant to the lessor for the privilege or right to use or occupy real property are taxable, unless the lessor has paid the sales tax to the utility company on such utilities consumed by the tenant, and the utilities billed by the lessor to the tenant are separately stated on the lessor’s invoice to the tenant at the same or lower price as that billed by the utility company to the lessor.

1. Example: Landlord owns a building with 5 offices and common areas. All offices are the same size. Landlord uses one office and leases the other four. The lease agreement provides that the utility charges are “additional rent” and failure to pay such utility charges when required will cause the lease to terminate. All offices use approximately the same amount of utilities. Utility services are sold by City Utilities to Landlord. Landlord’s total utility bill is \$1,900. Of that total, \$150 was non-taxable water, garbage, and sewage charges. Landlord charges each tenant \$2,000 rent and one-fifth ~~4/5~~ of Landlord’s total utility bill with no mark-up. Tenant owes tax on the rent and on his portion of the utility charges not taxed to Landlord. Therefore, the invoice to the tenant for a ~~the~~ month the state tax rate imposed in Section 212.031, F.S., is 2% reads ~~should read:~~

Rent	\$2,000.00
Tenant’s one-fifth share of charges not taxed to Landlord (\$150 * 20%)	30.00
Total subject to sales tax	\$2,030.00
Florida (2.0% <u>4.5%</u>) sales tax	40.60 <u>91.35</u>
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord (\$1,900 - \$150 * 20%)	350.00
Total Amount Due	\$2,420.60 <u>\$2,471.35</u>

2. Example: Same facts as above, except Landlord marks up Tenants' share of the total of City Utilities' service bill by 10 percent. ~~Thus~~ Each tenant's one-fifth share of utilities would be \$418.00, instead of \$380.00. Again, if Landlord separately states the utility charges on the tenant's invoice, Landlord ~~would should~~ compute the tax as follows:

Rent	\$2,000.00
Tenant's one-fifth share of utilities not taxed (total utilities \$418.00, less utilities on which Landlord paid tax, \$350.00)	68.00
Total subject to tax	\$2,068.00
Florida (2.0% 4.5%) sales tax	<u>41.36</u> 93.06
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord	350.00
Total Amount Due	<u>\$2,459.36</u> \$2,511.06

(f) through (g) No change.

(5) through (7) No change.

(8) When a tenant (lessee) or other person occupying, using, or entitled to use any real property (licensee) sublets or assigns some portion of the leased or licensed property, ~~the tenant he~~ may take credit on a pro rata basis for the tax ~~that he~~ paid to ~~the his~~ landlord or other such person on the space that is subleased or assigned he subleases or assigns. Proration ~~must shall~~ be computed on square footage or some other basis acceptable to the Executive Director or the Executive Director's designee in the responsible program. For example, Tenant leases 200 square feet of floor space for \$400.00 and pays Landlord ~~\$8.00~~ ~~\$18.00~~ rental tax for a month when the state tax rate imposed in Section 212.031, F.S., is 2%. Tenant subleases 100 square feet, ~~or~~ one half, of the space, to Subtenant for \$300.00 and collects ~~\$6.00~~ ~~\$13.50~~ tax which is remitted he remits to the Department State, less a credit of ~~\$4.00~~ ~~\$9.00~~ for tax ~~that he~~ paid to ~~the his~~ landlord on the space ~~that he~~ subleased to Subtenant. (One half of \$400.00 is \$200.00 and ~~2.0~~ 4.5 percent of this amount is ~~\$4.00~~ ~~\$9.00~~.)

(9) through (23) No change.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.03(6), 212.031 FS. History—New 10-7-68, Amended 2-8-69, 10-7-69, 6-16-72, 9-26-77, 10-18-78, 12-31-81, 7-20-82, Formerly 12A-1.70, Amended 1-2-89, 3-27-95, 7-17-95, 1-17-18, 1-8-19, 12-12-19, 6-14-22, 12-1-23, 8-6-24.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
(2) through (3) No change.		
(4)(a) No change.		
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-1685846257)	<u>06/24/01/24</u>
(c) No change.		
(5)(a) No change.		
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref-1686046259)	<u>06/24/01/24</u>
(c) through (d) No change.		
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref-1685946258)	<u>06/24/01/24</u>
(f) No change.		
(6) through (22) No change.		

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.0596(3), 212.06(5)(b)13., 212.0596(3), 212.06(5)(b)13., 212.07(1)(b), 212.08(7), 212.099(10), 212.11(5)(b), 212.12(1)(a)2., 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 1002.40(16) FS. Law Implemented 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.22(3)-(6), 202.28(1), 203.01, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.0596, 212.05965, 212.06, 212.0606, 212.07(1), (8), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.099, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.14(2), (4), (5), 212.18(2), (3), 212.183, 212.1832, 213.235(1), (2), 213.29, 213.37, 213.755, 215.26(6), 219.07, 288.1258, 290.00677, 365.172(9), 376.70(2), 376.75(2), 403.718, 403.7185(3), 443.131, 443.1315, 443.1316, 443.171(2), 1002.40(13) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-

10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, 1-17-13, 5-9-13, 1-20-14, 1-19-15, 1-11-16, 4-5-16, 1-10-17, 2-9-17, 1-17-18, 4-16-18, 1-8-19, 10-28-19, 12-12-19, 3-25-20, 12-31-20, 6-14-22, 1-1-23, 1-1-24, 2-11-24, 8-6-24.

CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code, that materials incorporated by reference in Rule 12A-1.097, F.A.C., have been:

(1) Filed through the Department of State's e-rulemaking website at www.flrules.org.

(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials as described in option (1) above, a true and complete copy of the incorporated materials has been provided to the Department of State as outlined in paragraph 1-1.013(5)(c), F.A.C. Copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

<u>Form Number</u>	<u>Form Title or Title Name</u>
DR-7N	Instructions for Consolidated Sales and Use Tax Return
DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns
DR-15N	Instructions for DR-15 Sales and Use Tax Returns

Under the provisions of Section 120.54(3)(e)6., F.S., the attached material(s) take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.



Signature, Person Authorized to Certify Rules

General Counsel

Title

From: FL-Rules@dos.state.fl.us
To: [Tonya Fulford](#)
Cc: flrules@dos.state.fl.us
Subject: 12A-1.097 Reference Material for Rule Adoption Approved
Date: Friday, July 12, 2024 12:45:39 PM

Dear fulfordt:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 12A-1.097

Reference Number: Ref-16858; Reference Name: DR-7N - Instructions for Consolidated Sales and Use Tax Return

Reference Number: Ref-16859; Reference Name: DR-15EZN - Instructions for DR-15EZ Sales and Use Tax Returns

Reference Number: Ref-16860; Reference Name: DR-15N - Instructions for DR-15 Sales and Use Tax Returns

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State