



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 Rules are presented for certification:

Rule 12A-1.0143 Rule 12A-1.070 Rule 12A-1.087 Rule 12A-1.097

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 11:21:04
TALLAHASSEE, FLORIDA

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

RECEIVED
2010 DEC 19 PM 6:17
FILED

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-1.0143

12A-1.070

12A-1.087

12A-1.097

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

13
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-1.0143, F.A.C.
Rule 12A-1.070, F.A.C.
Rule 12A-1.087, F.A.C.
Rule 12A-1.097, F.A.C.


Signature of Agency Head

Executive Director

Title

FILED
2019 DEC 19 AM 9:47
TALLAHASSEE, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
REPEALING RULE 12A-1.0143
AMENDING RULES 12A-1.070, 12A-1.087 AND 12A-1.097

FILED
2010 DEC 19 AM 9:47
TALLAHASSEE, FLORIDA

12A-1.0143 Manufacturing and Spaceport Investment Incentive Program Tax Refunds.

~~(1) Who May Claim the Refund? Any eligible entity that has received approval from the Department of Economic Opportunity, Division of Strategic Business Development for the purchase of eligible equipment for use in the Manufacturing and Spaceport Investment Incentive Program may claim the refund. A refund will be allowed on state sales and use taxes previously paid, but not on any discretionary sales surtax paid. The refunds are limited to the time periods and amounts provided in subsection (2).~~

~~(2) Amount of the Refund. The refund amount is based on an eligible entity's purchases of eligible equipment placed in service in Florida during the state fiscal years 2010-2011 and 2011-2012 (July 1, 2010-June 30, 2011, and July 1, 2011-June 30, 2012) in excess of the entity's total cost of eligible equipment purchased and placed into service in Florida by the entity in its tax year that began in 2008. The total amount of refund available to an eligible entity is limited to the amount of previously paid state sales and use tax certified by the Department of Economic Opportunity and will not exceed \$50,000 in each of the state fiscal years 2010-2011 and 2011-2012.~~

~~(3) Obtaining the Refund.~~

~~(a) Taxpayers must file an application with the Department of Economic Opportunity, Division of Strategic Business Development for eligibility for a tax refund under the Manufacturing and Spaceport Investment Incentives Program. Applications may be obtained at http://www.flgov.com/financial_incentives or by calling (850)487-2568.~~

~~(b) When the Department of Economic Opportunity, Division of Strategic Business Development sends written certification to the applicant certifying the amount of Florida sales and use tax refund, the Division will send a copy of the written certification to the Department. To obtain a refund of Florida sales and use tax previously paid on purchases of eligible equipment under the Manufacturing and Spaceport Investment Incentive Program, a completed Application for Refund Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.),~~

with a copy of the certification letter issued by the Office, must be filed with the Department. Form DR-26S must be filed within 30 days from the date of the written certification issued by the Division. Applications for Refund-Sales and Use Tax are available on the Department's website at www.floridarevenue.com/forms. Form DR-26S, with a copy of the certification letter, should be mailed to:

Florida Department of Revenue
Refund Subprocess
P.O. Box 6490
Tallahassee, Florida 32314-6490.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 213.255, 215.26, 288.1083 FS.
History—New 6-6-11, Repealed.

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

(1) through (3) No change.

(4)(a) No change.

(b) The tax shall be paid ~~at the rate of 5.8 percent~~ on all considerations due and payable by the tenant or other person actually occupying, using, or entitled to use any real property to his landlord or other person for the privilege of use, occupancy, or the right to use or occupy any real property for any purpose. The amount of tax due must be calculated with the use of the applicable effective sales tax brackets ~~(Form DR-2 LLRP, Florida Sales Tax Brackets Effective on all Leases and Licenses of Real Property Transactions Taxable Under Section 212.031(1)(c), F.S., incorporated by reference in Rule 12A-1.097, F.A.C.).~~

(c) through (d) No change.

(e) No change.

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. City Utilities' service bill to Landlord is as follows:

Electrical energy	\$1,000.00
Gas energy	500.00
Gross Receipts Tax (\$1,500 — 2.5%)	37.50
Subtotal—subject to sales tax	1,537.50
Sewage & garbage service	100.00
Water service	50.00
Florida sales tax	92.25
Municipal utilities tax (\$1,500 — 10%)	150.00
Total Amount Due	\$1,929.75

Landlord charges each tenant \$2,000 rent and 1/5 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, which includes the tenant's use of the common areas, in addition to the tenant's pro rata share of utilities, including sales tax on utilities, gross receipts tax on utilities and municipal utility tax based on Landlord's cost. Of the above total charges that add up to \$1,929.75, the charges for services of sewage, garbage, and water service are not utility service charges on which tax was paid by Landlord. Consequently, only the portion of each tenant's \$385.95 share of the total charge billed by City Utilities (\$1,929.75) which represents the tenant's share of non-taxable charges is taxable as rent. Therefore, the invoice to the tenant for the month should read:

Rent	\$2,000.00
Tenant's one-fifth share of charges <u>not taxed to Landlord</u> for sewage, garbage, & water	
<u>(\$150 * 20%)</u>	30.00
Total subject to sales tax	\$2,030.00
Florida (5.7% 5.8%) sales tax	<u>115.71</u> 117.74
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord <u>(\$1,900 -</u>	
<u>\$150 * 20%)</u>	<u>350.00</u> 355.95
Total Amount Due	\$2,495.71 2,503.69

2. Example: Same facts as above, except Landlord marks up Tenants' share of the total of City Utilities' service bill by 10 percent, resulting in a total charged to the tenants for utilities of \$2,122.73, instead of the \$1,929.75 actually paid by Landlord for the utilities. Thus each tenant's one-fifth share of utilities would be \$418.00 ~~\$424.55~~,

instead of ~~\$380.00~~ ~~\$385.95~~. Again, if Landlord separately states the utility charges on the tenant's invoice, Landlord should compute the tax as follows:

Rent	\$2,000.00
Tenant's one-fifth share of utilities not taxed (total utilities \$418.00 \$424.55 , less utilities on which Landlord paid tax, \$350.00 \$355.95)	68.00 68.60
Total subject to tax	\$2,068.00 2,068.60
Florida (5.7% 5.8%) sales tax	117.88 119.94
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord lessor	350.00 355.95
Total Amount Due	\$2,535.88 2,544.49

~~However, where a landlord marks up the utilities, in addition to the sales tax being due, gross receipts tax, at the rate of 2.5 percent, would also be due on the marked-up portion, pursuant to Section 203.01, F.S.~~

(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, he may take credit on a pro rata basis for the tax that he paid to his landlord or other such person on the space that he subleases or assigns. Proration 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 ~~\$22.80~~ ~~\$23.20~~ rental tax. Tenant subleases 100 square feet, or one half, of the space to Subtenant for \$300.00 and collects ~~\$17.10~~ ~~\$17.40~~ tax which he remits to the State, less a credit of ~~\$11.40~~ ~~\$11.60~~ for tax that he paid to his landlord on the space that he subleased to Subtenant. (One half of \$400.00 is \$200.00 and ~~5.7~~ ~~5.8~~ percent of this amount is ~~\$11.40~~ ~~\$11.60~~.)

(9) through (23) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(h), (i), (13), 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, ____.

12A-1.087 Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes;
Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1) through (7) No change.

(8)(a) The following sales and uses of liquefied petroleum gas, diesel, and kerosene are exempt when:

1. through 4. No change.

5. Sold for use in any tractor, vehicle, or other farm equipment that is used directly or indirectly for the production, packing, or processing of aquacultural products, whether on or off the farm.

(b) No change.

(9)(a) Electricity used for the production, packing, or processing of agricultural products on a farm or in a packinghouse is exempt. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. "Packinghouse" means any building or structure where fruits, vegetables, or meat from cattle or hogs or fish are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution. The exemption only applies if the electricity is separately metered from the electricity used for nonexempt purposes. If the electricity is centrally metered and is used for both tax-exempt and taxable purposes, the purchase of the electricity is subject to tax. The indirect use of electricity, such as in employee break rooms or restrooms, repair facilities, or administrative offices located on a farm or in a packinghouse, qualified for the exemption. However, when a retail establishment is located on a farm and the electricity is not separately metered from the electricity used elsewhere on the farm, the electricity is subject to tax.

(b) No change.

(c) The exemption will not be allowed unless the purchaser furnishes its utility a written certificate stating that the electricity is used on a farm for the production, packing, or processing of agricultural products, or in a packinghouse, and qualifies for the exemption under Section 212.08(5)(c)2., F.S. The following is a suggested format of an exemption certificate to be issued to a utility company to make tax-exempt purchases of electricity used for this purpose:

SUGGESTED EXEMPTION CERTIFICATE
ELECTRICITY USED FOR THE PRODUCTION, PACKING,
OR PROCESSING OF AGRICULTURAL PRODUCTS ON A FARM
OR USED IN A PACKINGHOUSE

I certify that the electricity used on or after _____ (DATE) from _____ (UTILITY COMPANY) consumed through the following meter(s) is exempt from sales tax pursuant to Section 212.08(5)(e)2., Florida Statutes (F.S.), and will be:

(Check the appropriate box)

- ☐ Used in the production, packing, or processing of agricultural products on a farm.
- ☐ Used in a packinghouse for packing or otherwise preparing for market, or for shipment in fresh form, for wholesale distribution fruits and vegetables, or meat from cattle or hogs or fish.

I certify that the electricity will not be used in a building or structure where agricultural products are sold at retail.
Meter Number(s):

I understand that if the electricity purchased does not qualify for exemption under Section 212.08(5)(e)2., F.S., then I must pay the tax on the purchase directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax, plus a mandatory penalty of 200% of the tax, and will be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in Section 775.082, 775.083, or 775.084, F.S.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name and Title (Print or Type)

Purchaser's Address

Signature

Date

(10) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) through (e) No change.

(f) The following is a suggested format of an exemption certificate to be issued by any person purchasing or leasing power farm equipment qualifying for exemption under Section 212.08(3), F.S., or items that qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the

suggested format that are not relevant to the purchaser or lessee may be eliminated from the certificate. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt power farm equipment or items for agricultural use or for agricultural purposes. For an aquaculture health product, the purchaser may use the suggested purchaser's exemption certificate below or provide a copy of the aquaculture producer's Aquaculture Certification from the Florida Department of Agriculture and Consumer Services to the selling dealer.

SUGGESTED PURCHASER'S EXEMPTION CERTIFICATE
ITEMS FOR AGRICULTURAL USE OR FOR
AGRICULTURAL PURPOSES AND POWER FARM EQUIPMENT

This is to certify that the items identified below, purchased on or after _____ (date) from _____ (Selling Dealer's Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

- ☐ Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.
- ☐ Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.
- ☐ Generators purchased, rented, or leased for exclusive use on a poultry farm. See the exemption category provided for power farm equipment, as defined in Section 212.02(30), F.S., which includes generators, motors, and similar types of equipment.
- ☐ Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in Section 212.08(5)(a), F.S.
- ☐ Animal health product that are administered to, applied to, or consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, as provided in Section 212.08(5)(a), F.S.
- ☐ Aquaculture health product to prevent or treat fungi, bacteria, and parasitic diseases, as provided in Section 212.08(5)(a), F.S. I certify that I am engaged in the production of aquaculture products and certified under Section 597.004, F.S.
- ☐ Nets, and parts used in the repair of nets, purchased by commercial fisheries.
- ☐ Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

() Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.

() Seedlings, cuttings, and plants used to produce food for human consumption.

() Stakes used to support plants during agricultural production.

() Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for baling hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.

() Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

() Liquefied petroleum gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

() Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

() Butane gas, propane gas, natural gas, or other form of liquefied petroleum gas used in a tractor, vehicle, or other farm equipment used directly or indirectly for the production, packing, or processing of aquacultural products, whether on or off the farm.

() Power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S., or

() Power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S., or

() Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S., or

() Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S.

() Other (include description and statutory citation):

I understand that if I use the item for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable item directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling (850)488-6800, Monday through Friday (excluding holidays).

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Representative _____

Sales and Use Tax Certificate No. (if applicable) _____

By _____
(Signature of Purchaser or Authorized Representative)

Title _____
(Title – only if purchased by an authorized representative of a business entity)

Date _____

(g) No change.

(11) No change.

(12) Industrial Machinery and Equipment Used in Aquaculture

(a) Industrial machinery and equipment, including parts and accessories, purchased for use in aquacultural activities at fixed locations is exempt. For the purposes of this rule, the following definitions apply:

1. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. A building and its structural components,

including heating and air-conditioning equipment are included. The term also includes parts and accessories only to the extent that the exemption is consistent with this sub-paragraph.

2. “Aquacultural activities” means the business of cultivating aquatic organisms. Such businesses must be certified by the Department of Agriculture and Consumer Services. Aquacultural activities must produce an aquaculture product, defined as “aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.”

(b) Suggested Exemption Certificate for Industrial Machinery and Equipment Used in Aquaculture.

1. Any person who purchases items that qualify for the exemption must issue an exemption certificate to the selling dealer to purchase such machinery or equipment tax-exempt. The exemption certificate must contain the purchaser’s name and address, the reason for the exemption, and the signature of the purchaser or an authorized representative of the purchaser.

2. The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made to the same purchaser for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

3. Dealers who accept in good faith the required certificate from the purchaser or lessee will not be assessed sales tax on sales of qualifying machinery and equipment. In such instances, the Department will look solely to the purchaser or lessee for any additional sales or use tax due.

4. Selling dealers may contact the Department at (850)488-6800, Monday through Friday (excluding holidays) to verify the specific exemption specified by the purchaser or lessee. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

5. The following is a suggested format of an exemption certificate to be issued by any person purchasing or leasing industrial machinery or equipment qualifying for exemption under Section 212.08(5)(t), F.S. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt machinery or equipment.

SUGGESTED EXEMPTION CERTIFICATE

EXEMPTION FOR INDUSTRIAL MACHINERY AND EQUIPMENT FOR USE IN AQUACULTURAL
ACTIVITIES

I certify that the machinery and equipment purchased on or after _____ (DATE) from _____ (SELLER) is exempt from sales tax pursuant to Section 212.08(5)(t), Florida Statutes (F.S.), and will be used as an integral part in aquacultural activities in manufacturing, processing, compounding, or production of tangible personal property for sale. I understand that I must produce an aquaculture product as defined as “aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions and that such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.”

I understand that if the machinery and equipment purchased does not qualify for exemption under Section 212.08(5)(t), F.S., I will be liable for sales and use tax, interest, and penalties due on the purchase price of the items.

I further understand that when any person fraudulently issues, for the purpose of evading tax, a certificate or statement in writing to a vendor or to any agent of the state in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, will be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Under penalties of perjury, I declare that I have read the foregoing certificate and that the facts stated in it are true.

Purchaser's Name and Title (Print or Type)

Purchaser's Address

Signature

Date

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.08(3), (5)(a), (e), (7)(jjj), 212.085 FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, 6-19-01, 9-15-08, 1-17-13, 1-11-16, 1-10-17, 1-17-18,_____.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) through (3)	No change.	
(4)(a) DR-7	Consolidated Sales and Use Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1016804852)	<u>01/19</u> 01/15
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R-01/18) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1016908956)	<u>01/19</u> 01/18
(c) DR-15CON	Consolidated Summary – Sales and Use Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1016804852)	<u>01/19</u> 01/15
(5)(a) DR-15	Sales and Use Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1017004854)	<u>01/19</u> 01/15
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns (R-01/18) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1017108957)	<u>01/19</u> 01/18
(c)	No change.	
(d) DR-15EZ	Sales and Use Tax Return (R-01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1017204855)	<u>01/19</u> 01/15
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns (R-01/18) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1017308958)	<u>01/19</u> 01/18
(f) through (k)	No change.	
(6) through (12)	No change.	
(13) DR-95B	Schedule of Tax Credits Claimed on Repossessed Tangible Personal Property (R-01/18) (http://www.flrules.org/Gateway/reference.asp?No=Ref-1017509253)	<u>01/19</u> 01/18
(14) through (19)	No change.	
(20) DR-2LLRP	Florida Sales Tax Brackets Effective on all Leases and Licenses of Real Property Transactions Taxable under Section 212.031(1)(c), F.S. (N-01/18) (http://www.flrules.org/Gateway/reference.asp?No=Ref-08960)	01/18

(21) through (22) Renumbered (20) through (21) No change

(22) DR-26SIGEN Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted 01/19
Living Facilities (<http://www.flrules.org/Gateway/reference.asp?No=Ref-10174>)

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 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), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(2), (4), (5), 212.17, 212.18(2), (3), 212.183, 213.235, 213.29, 213.37, 213.755, 215.26(6), 219.07, 288.1258, 290.00677, 365.172(9), 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) 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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
REPEALING RULE 12A-1.0143
AMENDING RULES 12A-1.070, 12A-1.087, AND 12A-1.097

FILED
2010 DEC 19 AM 9:47
TALLAHASSEE, FLORIDA

SUMMARY OF PROPOSED RULES

Section 288.1083, F.S., previously provided for a refund of tax to certain manufacturing and spaceport entities under an investment incentive program. This program expired July 1, 2013, and taxpayers are no longer eligible for a tax refund. The proposed repeal of Rule 12A-1.0143, F.A.C., removes obsolete provisions related to this incentive program.

The state sales tax rate is set by the Legislature and is subject to change from year to year. The 2018 Legislature reduced the state rate for leases and licenses of real property from 5.8% to 5.7%. The proposed amendment to Rule 12A-1.070, F.A.C., adjusts the state sales tax rate to match the statutory change.

Section 36, Chapter 2018-118, L.O.F., made three changes to applicable aquaculture businesses. First, the exemption for butane gas, propane gas, natural gas, and liquefied petroleum gas was expanded to apply to the production, packing, or processing of aquacultural products, either on or off the farm. Second, the exemption for electricity was expanded to apply to packinghouses where fish are packed or prepared for shipment. Third, a new exemption was added for industrial machinery and equipment purchased for use in aquacultural activities. The proposed amendments to Rule 12A-1.087, F.A.C., provide guidance on how businesses can document and receive these exemptions.

The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, changes to forms currently used to administer sales and use tax. Chapter 2018-6, L.O.F., established two new sales tax scholarship programs under Chapter 212, F.S. Changes to existing forms provide a method for taking a credit under the new tax scholarship programs. In addition, a new form is being promulgated to administer the exemption provided by Section 56, Chapter 2018-118, L.O.F., for equipment used to generate emergency electric energy at nursing homes and assisted living facilities.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The repeal of Rule 12A-1.043, F.A.C., is necessary due to obsolescence. Changes to Rules 12A-1.070, 12A-1.087, and 12A-1.097, F.A.C., are necessary to implement statutory changes.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

JULY 18, 2018

A Notice of Proposed Rule Development was published in the Florida Administrative Register on July 2, 2018 (Vol. 44, No. 128, pp. 3093-3094), to advise the public of the proposed repeal of Rule 12A-1.0143, F.A.C., and the proposed changes to Rules 12A-1.070, 12A-1.087, and 12A-1.097, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held on July 18, 2018. No request was received, and no workshop was held. No written comments were received by the Department.

SUMMARY OF PUBLIC MEETING

AUGUST 14, 2018

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 14, 2018, and approved the publication of the Notice of Proposed Rule for changes to Rules 12A-1.0143, 12A-1.070, 12A-1.087 and 12A-1.097, F.A.C. A notice for the public hearing was published in the Florida Administrative Register on August 6, 2018 (Vol. 44, No. 152, pp. 3648-3649).

SUMMARY OF RULE HEARING

OCTOBER 10, 2018

A Notice of Proposed Rule was published in the Florida Administrative Register on September 14, 2018 (Vol. 44, No. 180, pp. 4208-4214), to advise the public of the proposed changes to Rules 12A-1.0143, 12A-1.070, 12A-1.087, and 12A-1.097, F.A.C., and to provide that, if requested in writing, a rule hearing would be held on

October 10, 2018. No request was received, and no hearing was held.

Written comments were received from the staff of the Joint Administrative Procedures Committee for Rule 12A-1.087, F.A.C. A notice of change was published in the Florida Administrative Register on November 6, 2018, (Vol. 44, No. 217, p. 5104), to conform a definition in the rule to statutory language. The final rule language presented for adoption today reflects these changes.

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 Rules 12A-1.0143, 12A-1.070, 12A-1.087, and 12A-1.097, 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).

DEPARTMENT OF REVENUE
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 have been:

☒ (1) Electronically filed with the Department of State.


☐ (2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by _____.

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

Title

DR-7	Consolidated Sales and Use Tax Return
DR-7N	Instructions for Consolidated Sales and Use Tax Return
DR-15CON	Consolidated Summary Sales and Use Tax Return
DR-15	Sales and Use Tax Return
DR-15N	Instructions for DR-15 Sales and Use Tax Return
DR-15EZ	Sales and Use Tax Return
DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns
DR-95B	Schedule of Tax Credits Claimed on Repossessed Tangible Personal Property
DR-26SIGEN	Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted Living Facilities

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

Deputy Executive Director
Title

FILED
2013 OCT 19 4:19:46
TALLAHASSEE FLORIDA

Danielle Boudreaux

From: FL-Rules@dos.state.fl.us
Sent: Tuesday, December 11, 2018 11:49 AM
To: Danielle Boudreaux
Cc: flrules@dos.state.fl.us
Subject: 12A-1.097 Reference Material for Rule Adoption Approved

Dear dboudreaux:

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-10168; Reference Name: DR-7 and DR-15CON

Reference Number: Ref-10169; Reference Name: DR-7N

Reference Number: Ref-10170; Reference Name: DR-15

Reference Number: Ref-10171; Reference Name: DR-15N

Reference Number: Ref-10172; Reference Name: DR-15EZ

Reference Number: Ref-10173; Reference Name: DR-15EZN

Reference Number: Ref-10174; Reference Name: DR-26SIGEN

Reference Number: Ref-10175; Reference Name: DR-95B

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

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2018 DEC 19 AM 9:48
OFFICE OF THE
CLERK OF THE
FLORIDA