

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE

SALES AND USE TAX

AMENDING RULES 12A-1.0015, 12A-1.005, 12A-1.020, 12A-1.056, 12A-1.057, 12A-1.060, 12A-1.070, 12A-1.091, 12A-1.097, 12A-1.103, and 12A-1.108

CREATING RULE 12A-1.112

REPEALING RULES 12A-1.004 and 12A-1.104

12A-1.0015 Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats.

(1) Scope.

(a) Tangible personal property imported, produced, or manufactured in this state for export, as provided in Section 212.06(5)(a)1., F.S., is not subject to Florida sales tax when the importer, producer, or manufacturer delivers the property to a forwarding agent ~~licensed exporter~~ for export ~~outside Florida~~ or to a common carrier for shipment outside Florida, or mails the property by United States mail to a destination outside Florida. ~~This rule is intended to provide tax guidelines for the sale of tangible personal property for the purposes of export from Florida.~~

(b) No change

(2) Sales of property irrevocably committed to exportation.

(a) No change

(b) When a dealer sells tangible personal property, commits the property to the exportation process at the time of sale, and the exportation process remains continuous and unbroken until the property is exported from Florida, the dealer is not required to collect tax. The intent of the seller and the purchaser to export the property is not sufficient to establish that the property is not subject to tax in Florida. The delivery of the property to a location in Florida for subsequent export from Florida is insufficient to establish documentary evidence that the property sold was irrevocably committed to the exportation process. The following are examples of methods to commit the property to the exportation process at the time of sale:

1. through 2. No change

3. The dealer is required by the terms of the sale contract to deliver the property to a carrier, licensed customs broker, or forwarding agent for final and certain movement of the property to a destination located outside Florida.

a. through b. No change

c. The term “forwarding agent” means a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons ~~regularly engaged in the business of preparing property for shipment or arranging for its shipment for compensation.~~

d. No change

(c) No change

(d)1. Any dealer who makes tax exempt sales of tangible personal property and, in good faith, accepts a valid copy of a Florida Certificate of Forwarding Agent Address or relies on the list of designated forwarding agent addresses on the Department’s website and then ships the property to the designated address on the certificate for export outside of the United States is not liable for any tax due on sales made during the effective dates of the certificate. The dealer must maintain documentation that the property was shipped or delivered by the dealer directly to the forwarding agent address.

2. If tax was not collected by a dealer on tangible personal property shipped to a designated forwarding agent address and the tangible personal property remained in Florida or if delivery to the purchaser or purchaser’s agent occurred in Florida, then the forwarding agent must remit applicable tax on the tangible personal property. This subparagraph does not prohibit the forwarding agent from collecting such tax from the consumer of the tangible personal property.

(e) (d) No change; renumbered (e)

(f) (e) Regardless of the evidence maintained by the dealer to document delivery of the property to a common carrier, forwarding agent, or a licensed customs broker for shipment to a location outside Florida, or the mailing of the property by the United States mail to a location outside Florida, tax is due when the property is diverted in transit to the purchaser or the purchaser’s agent or representative in Florida and such person takes possession in Florida, or when for any other reason the property is not delivered outside Florida.

(3) No change

(4) Florida Certificate of Forwarding Agent Address; Application; Eligibility.

(a) To apply for a Florida Certificate of Forwarding Agent Address, an applicant must submit a complete Application for a Florida Certificate of Forwarding Agent Address (Form DR-1FA, incorporated by reference in Rule 12A-1.097, F.A.C.), a Florida Business Tax Application (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.), and documentation sufficient to substantiate the applicant's eligibility for the certificate, including the applicant's most recently filed federal income tax return. An application for a certificate is complete when all information required to be submitted by Section 212.06(5)(b), F.S., the application, and this rule is provided to the Department.

(b) To receive a certificate, an applicant is required to demonstrate that:

1. The applicant's principal business activity is facilitating for compensation the export of property owned by other persons;

2. The applicant is engaged in international export; and

3. The designated address for which certification is sought is used exclusively by the applicant for receiving tangible personal property originating with a United States vendor for export out of the United States through a continuous and unbroken exportation process.

(c) Each applicant is required to provide the following to demonstrate the business is engaged in the export of property owned by others and supported by the following information:

1.a. A copy of the applicant's federal income tax return for the preceding taxable year with NAICS code 488510; or

b. A copy of the applicant's federal income tax return for the preceding taxable year with a NAICS code consistent with the principal business activity of a forwarding agent and an explanation why the NAICS code demonstrates the applicant is a forwarding agent; or

c. An explanation as to why the business did not file a federal income tax return for the preceding taxable year and the NAICS code under which the applicant intends to file a federal income tax return.

2. A description of all business activity that occurs at each designated address submitted on the Application for a Florida Certificate of Forwarding Agent Address.

3.a. Applicants who include a copy of their federal income tax return are required to include a statement of total revenues, a statement of revenues associated with facilitating for compensation the export of property owned by

other persons, and a statement of revenues associated with international export. These statements must be from the year preceding the date of application.

b. Applicants who do not include a copy of their federal income tax return are required to include a statement of total estimated revenues, a statement of estimated revenues associated with facilitating for compensation the export of property owned by other persons, and a statement of estimated revenues associated with international export.

4. Certification that

a. The tangible personal property delivered to the designated address for export originates with a United States vendor; and

b. The tangible personal property delivered to the designated address for export is irrevocably committed to export out of the United States through a continuous and unbroken exportation process; and

c. The designated address is used exclusively by the forwarding agent for such export; and

d. The principal business activity is that of a forwarding agent; and

e. The applicant is engaged in international export.

(d) When an application is approved, the applicant will be issued a Florida Certificate of Forwarding Agent Address (Form DR-14FA), which is valid from the “Issue Date” through the “Expiration Date” as indicated on the certificate unless revoked or surrendered prior to the expiration date. After a certificate is issued, the following information will be published on the Department’s website:

1. The name of the forwarding agent’s business.

2. The designated address of the forwarding agent.

3. The issue date and the expiration date provided on the certificate.

(e) When an application is incomplete, the Department will issue a letter notifying the applicant of the documentation or information that is to be provided to the Department within 30 days following the date of the notification. If an applicant fails to provide the required documentation or information and the application remains incomplete or the Department is not able to approve an application, a notice explaining the reason for the denial will be mailed to the applicant. The applicant may protest the denial pursuant to Sections 120.569 and 120.57, F.S., within 21 days after the date of the notice.

(f) Beginning July 1, 2023, each business holding a Florida Certificate of Forwarding Agent Address must submit Form DR-1FA to verify the designated address used by the forwarding agent no later than July 1 each year.

(g) Within 30 days of any material change, business holding a Florida Certificate of Forwarding Agent Address must submit an updated Form DR-1FA documenting the material change.

1. A change is considered material if the change affects the following information previously submitted by the certificate holder:

a. Florida Business Partner Number

b. Federal Employer Identification Number (FEIN)

c. Legal Name of Business

d. Contact Person, including changes to their contact information

e. Mailing Address

f. Business Website

g. Designated Address(es)

h. Description of all business activity conducted at the designated address(es)

i. Federal Income Tax Return (if one was not included with the initial application)

2. A change is not considered material if it relates to a new federal income tax return if one was provided with the initial application; new documentation demonstrating the applicant remains engaged in international export; or changes in revenues or estimated revenues, unless the changes demonstrate that the principal business activity is no longer the facilitation for compensation the export of property owned by others.

3. The Department will notify the applicant when a material change requires submission of an updated Form DR-1.

(h) At least 30 days before the expiration date on a Certificate of Forwarding Agent Address, an application for renewal must be submitted using Form DR-1FA, along with documentation sufficient to substantiate the applicant's eligibility for the certificate. Form DR-1 is not required to be submitted with a renewal application, unless the Department notifies the applicant. The Department will review the renewal application in the same manner as the initial application.

(i) Certificate holders must immediately notify the Department, in writing, should the business no longer meet the eligibility requirements, provided in paragraph (b), for a Florida Certificate of Forwarding Agent Address and must surrender their certificate.

1. The written notification must include the Florida business partner number, federal employer identification number (FEIN), legal name of business, a statement as to why the business no longer meets the requirements of a forwarding agent as provided in Section 212.06(5)(b), F.S., and the business is surrendering its Florida Certificate of Forwarding Agent Address.

2. The written notification is to be submitted to the Department by email at Exemptions@floridarevenue.com, by fax to 850-488-5997, or by mail to:

Account Management MS 1-5730

Florida Department of Revenue

5050 W Tennessee St

Tallahassee FL 32399-0160

(j) If at any time the Department has reason to believe that a business holding a Florida Certificate of Forwarding Agent Address is not eligible for a certificate or is otherwise not in compliance with Section 212.06(5)(b), F.S., or this rule, the certificate holder will be sent a written notice of intent to revoke the certificate stating the reasons for such revocation.

1. The Department may request information from the certificate holder regarding its business operations to demonstrate its eligibility for a certificate or its compliance with all provisions of Section 212.06(5)(b), F.S., and this rule. Failure to provide the requested information within thirty (30) days of request is grounds for revocation of the certificate.

2. The certificate holder has the right to request an administrative hearing, to be conducted in accordance with Sections 120.569 and 120.57, F.S. and Rule Chapter 28-106, F.A.C., to dispute the notice of intent to revoke the certificate. The request must be received by the Department within 30 consecutive calendar days after the date of the notice. The Department's notice of intent to revoke the certificate will become final if no timely request for a hearing is received or if, following an administrative hearing, the Department issues a final order revoking the certificate.

(k) An entity whose Florida Certificate of Forwarding Agent Address has expired, been surrendered, or revoked by the Department is prohibited from extending a copy of its certificate to a selling dealer. Upon surrender, revocation, or expiration of a certificate without renewal, the forwarding agent's information will be removed from the Department's online list of forwarding agents holding a valid Florida Certificate of Forwarding Agent Address.

~~(5) (4)~~ No change; renumbered to (5)

~~(6) (5)~~ Recordkeeping requirements.

(a) 1. Selling dealers must maintain copies of internal delivery orders and supporting documentation, trip tickets, truck log records, United States Postal Service parcel post receipts, bills of lading, receipts from common carriers, export declarations, customs documents, receipts from licensed customs brokers, statements signed by a customs officer, declarations by nonresident dealers, copies of tax-exemption cards issued by the United States Department of State, exemption certificates, and other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

2. ~~(b)~~ Electronic storage by the selling dealer of the required certificates and other documentation ~~through use of imaging, microfiche, or other electronic storage media~~ will be sufficient compliance with the provisions of this subsection.

(b) 1. Forwarding agents must maintain copies of sales invoices or receipts between the vendor and the consumer when provided by the vendor or export documentation evidencing the value of the purchase consistent with the federal Export Administration Regulations, 15 C.F.R. parts 730-774; copies of federal income tax returns evidencing the forwarding agent's NAICS principal business activity code; copies of invoices or other documentation evidencing shipment to the forwarding agent; invoices between the forwarding agent and the consumer or other documentation evidencing the ship-to destination outside the United States; invoices for foreign postal or transportation services; bills of lading; and any other export documentation.

2. These records must be kept in an electronic format and made available to the Department at reasonable times and by reasonable means.

Rulemaking Authority 212.06(5)(b)13., 212.18(2), 213.06(1) FS. Law Implemented 212.02(20), 212.05(1), 212.06(1), (2), (5)(a)1., (b), 212.12(9), 212.13(1), (2), (3), (4), 212.21(3), 213.37 FS. History—New 6-12-03, XX-XX-XX.

12A-1.004 Sales Tax Brackets.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (3), (6), 212.031(1)(c), (d), 212.04(1), 212.05(1), 212.08(3), 212.12(9), (10), (11) FS. History—New 10-7-68, Amended 6-16-72, 9-24-81, 7-20-82,

*Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 6-19-01, 11-1-05, 9-1-09, 1-17-18, Repealed
XX-XX-XX.*

12A-1.005 Admissions.

(1)(a) Every person is exercising a taxable privilege when such person sells or receives anything of value by way of admissions, as defined in Section 212.02(1), F.S., except those admissions that are specifically exempt. Such seller is required to collect tax on the sales price or actual value of such admissions pursuant to Section 212.04(1)(b), F.S. Tax due must be calculated using the rounding algorithm as provided in Section 212.12(10), F.S. each admission charge for 10 cents or more the amount of tax provided for by the applicable bracket provided in Section 212.12(9), F.S. Each admission is a single sale. The seller may apply the rounding algorithm to the aggregate tax amount computed on all taxable admissions on an invoice or to the taxable amount of each individual admission on the invoice.

(b) No change

(c)1. The tax ~~shall be computed and collected by the seller on the sales price or actual value of the admission, as provided in Section 212.04(1)(b), F.S., and~~ is due at the moment of the transaction, except when the tax is collected for admission to an event at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility. Tax collected on such events is due to the Department on the first day of the month following the actual date of the event for which the admission is sold and becomes delinquent on the 21st day of that month. Therefore, tax collected on season and series tickets for events held in such facilities should be apportioned to each event in the season or series and remitted to the Department accordingly.

2. through 4. No change

(d) No change

(2) through (3) No change

(4) Dues and initiation fees, equity and nonequity memberships, capital contributions and assessments, refundable deposits, and user fees.

(a)1. Dues and user fees paid to any organization, including athletic clubs, health spas, civic, fraternal, and religious clubs, ~~and organizations~~ that provide physical fitness facilities or recreational facilities, such as golf

courses, tennis courts, swimming pools, yachting, boating, athletic, exercise, and fitness facilities, are subject to tax.

Dues and user fees do not include:

a. through d. No change

2. No change

(b) through (f) No change

(5) through (6) No change

Rulemaking Authority 212.04(4), 212.17(8) ~~212.17(6)~~, 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7)(gg), 616.260 FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, 4-26-10, 1-12-11, 1-17-13, 1-19-15, 1-17-18, XX-XX-XX.

12A-1.020 Licensed Practitioners; Drugs, Medical Products and Supplies.

(1) through (10) No change

(11) Items that assist in independent living. The following items, when purchased for noncommercial home or personal use, are exempt from tax:

(a) A bed transfer handle selling for \$60 or less.

(b) A bed rail selling for \$110 or less.

(c) A grab bar selling for \$100 or less.

(d) A shower seat selling for \$100 or less.

(11) No change; renumbered (12)

Rulemaking Authority 212.08(2)(a), 212.18(2), 213.06(1) FS. Law Implemented ~~95-091(3)~~, 212.08(2), (5)(u), 212.085, 212.12(6)(a), 213.37, ~~465.186~~, 465.187 FS. History—New 10-7-68, Amended 1-17-71, 6-16-72, 5-27-75, 5-10-77, 6-26-78, 2-26-79, 6-3-80, 12-31-81, 8-28-84, Formerly 12A-1.20, Amended 12-8-87, 7-12-10, XX-XX-XX.

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1) No change

(2) Collection allowance.

(a) No change

(b)1. The collection allowance (~~except for dealers who make mail order sales, see subsection (5) of Rule 12A-1.103, F.A.C.~~) is computed at the rate of 2.5 percent on the first \$1,200 of tax due. No collection allowance is authorized for tax collected in excess of \$1,200. The maximum amount of collection allowance authorized for any filing period for any electronic sales and use tax return is \$30.

2. through 4. No change

(c) through (e) No change

(3) through (4) No change

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185, ~~443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7),~~ 681.117 FS. History—New 10-7-68, Amended 6-16-72, 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, 11-6-07, 9-15-08, 1-17-13, 5-9-13, XX-XX-XX

12A-1.057 Alcoholic and Malt Beverages.

(1)(a) Alcoholic beverages, including beer, ale, and wine are taxable.

(b) Except as provided in Rule 12A-1.112, F.A.C., a dealer will ~~The dealer shall~~ add the tax to the sale price (including any other state and federal taxes) of each sale and may ~~he shall~~ not advertise or hold out to the public in any manner that the dealer ~~he~~ will pay all or absorb any part of the tax or ~~that he~~ will relieve the purchaser from the payment thereof.

(c) However, nothing herein contained shall be construed as prohibiting a dealer from setting his prices on the sale of alcoholic beverages in such a manner as to avoid the handling of pennies, provided ; ~~Provided, however, that~~ each and every one of the dealer's price lists shows ~~shall show~~ the price of the beverage and the amount of tax due ~~thereon~~ as separate items. ~~For example, a dealer's price may list a bottle of beer for 47¢, sales tax 3¢, total 50¢; a glass of wine for 80¢ plus sales tax of 5¢, total 85¢; or a cocktail for \$1.69 plus sales tax of 11¢, total \$1.80.~~

(2) No change

(3) In some instances, it may be impractical for a dealer to separately record the sales price of the beverage and the tax thereon. In such cases, for the privilege of deviating from the requirement of subsection (1) above, a dealer shall remit tax in accordance with one of the methods outlined below, and the dealer's ~~his~~ records must substantiate the method so elected.

(a) through (c) No change

(4)(a) ~~Wine Retroactively to July 1, 1981, wine~~ or fortified wine and liquor or distilled spirits provided by distributors or vendors for the purpose of “wine tasting” and “spirituous beverage tasting” as contemplated under the provisions of Chapters 564 and 565, F.S., is exempt from the tax imposed by Chapter 212, F.S.; however, any charge imposed upon the general public for “wine tasting” and “spirituous beverage tasting” is subject to tax.

(b) No change

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(12), (14)(a),~~ 212.05(1)(a)1.a., ~~(b),~~ (2), (3), (4), 212.06, 212.07(2), (4), 212.08(4)(b), (7)(s), ~~212.18(3),~~ 212.19, ~~561.01~~ FS. History—New 10-7-68, Amended 6-16-72, 1-10-78, 7-16-79, 7-20-82, Formerly 12A-1.57, Amended 12-13-88, 6-4-08, XX-XX-XX.

12A-1.060 Registration.

(1) Persons required to register as dealers.

(a) No change

(b)1. For purposes of this rule, a “dealer” means a dealer, as defined in Section 212.06(2), F.S., ~~and a dealer who makes mail order sales, as provided in Section 212.0596, F.S.~~

2. No change

(c) The term “dealer” includes a retailer who transacts a substantial number of remote sales or a marketplace provider that has a physical presence in Florida or that makes or facilitates through its marketplace a substantial number of remote sales.

(c) through (d) No change; renumbered (d) through (e)

(2) No change

(3) Registration of marketplace providers and remote sellers.

(a) Marketplace providers and remote sellers, as defined in Rule 12A-1.103, F.A.C., must register electronically with the Department to collect and remit sales tax and discretionary sales surtax and obtain a separate certificate of registration for each marketplace and each place of business in Florida. A marketplace is deemed a separate place of business. A separate application is required for each place of business located within Florida. Out-of-state businesses can submit one application for all out-of-state locations.

(b) Electronic registration can be completed by going to floridarevenue.com/taxes/registration. This applies to persons required to register pursuant to subparagraphs 1. and 2. below.

1. The following persons who have a physical presence in Florida must register using the Department's electronic *Florida Business Tax Application* (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.).

a. Marketplace providers.

b. Marketplace sellers who make sales outside of the marketplace.

2. The following persons who do not have a physical presence in Florida must register electronically using the Department's electronic registration application for marketplace providers and marketplace sellers. The information required in this electronic application is provided in the *Florida Business Tax Application for Marketplace Providers and Remote Sales* (Form DR-1MP, effective 01/22, hereby incorporated by reference,

http://www.flrules.org/Gateway/reference.asp?No=Ref-_____) and available on the Department's website at floridarevenue.com/taxes/sut. This form is provided for informational purposes only.

a. Marketplace providers who make or facilitate a substantial number of remote sales.

b. Marketplace sellers who make a substantial number of remote sales outside of the marketplace.

c. Remote sellers, as defined in Rule 12A-1.103, F.A.C.

(3) No change; renumbered (4)

~~(5)~~ (4) Registration of exhibitors.

(a) No change

(b) Any exhibitor who displays tangible personal property or services at a convention or trade show is required to register as a dealer and collect and remit tax on sales of taxable property or services subject to Florida sales tax when:

1. No change

2. The written agreement authorizes an exhibitor to make ~~remote mail order~~ sales, pursuant to Section 212.0596, F.S.; or

(c) No change

(5) No change; renumbered (6)

Rulemaking Authority ~~212.12(2)(d)~~, 212.18(2), 213.06(1) FS. Law Implemented 119.071(5), 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.05965, 212.06(2), ~~212.12(5), (6)~~, 212.14(4), 212.16(1), (2), 212.18(3) FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03, 6-4-08, 9-1-09, 6-14-10, 6-28-10 (6), 6-28-10 (3), 7-28-15, 1-17-18, 3-25-20, XX-XX-XX.

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 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.~~

(c) through (g) No change

(5) through (23) No change

Rulemaking Authority 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, 1-8-19, 12-12-19, XX-XX-XX.

12A-1.091 Use Tax.

(1) through (13) No change

(14)(a) through (c) No change

(d) Any person required to file and remit use tax on Form DR-15MO is not required to remit local option surtaxes on property purchased through a remote in-a-mail-order sale.

(15) No change

Rulemaking Authority 212.0596(3), 212.18(2), 213.06(1) FS. Law Implemented 212.02(7), (20), (21), 212.05(1), 212.0596(7), 212.06(1), (2), (4), (7), (8), (11), 212.07(8), 212.183 FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 11-6-85, Formerly 12A-1.91, Amended 7-7-92, 6-2-93, 11-16-93, 1-4-94, 5-18-94, 6-19-01, XX-XX-XX.

12A-1.097 Public Use Forms.

(1) No change

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____41781)	<u>01/22</u> 03/20
(b) through (c)	No change	
(d) DR-1A	Application for Registered Businesses to Add a New Florida Location (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____41782)	<u>01/22</u> 03/20
(e) through (f)	No change	
(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-_____42310)	<u>07/21</u> 01/21
(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-_____42311)	<u>07/21</u> 01/21
(c) through (d)	No change	
(e) DR-15EZ	Instructions for DR-15EZ Sales and Use Tax Returns	<u>07/21</u> 01/21

	(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____42342)	
(f) through (k)	No change	
(6) through (10)	No change	
(11) DR-46NT	Nontaxable Medical Items and General Grocery List (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____41384)	<u>01/22</u> 01/20
(12) through (24)	No change	
<u>(25) DR-1FA</u>	<u>Application for a Florida Certificate of Forwarding Agent Address</u> (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)	<u>01/22</u>

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., 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (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), 443.171(2), (7), 1002.40(16) FS. Law Implemented ~~92.525(1)(b),~~ 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, XX-XX-XX.

Substantial rewording of Rule 12A-1.103, F.A.C., follows. See Florida Administrative Code for present text.

12A-1.103 Remote Mail Order Sales; Marketplaces.

(1) Definitions.

(a) A “marketplace” means any physical place or electronic medium through which tangible personal property is offered for sale.

(b) A “marketplace provider” means a person who facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace and who directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits all or part of the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

(c) A “marketplace seller” means a person who has an agreement with a marketplace provider that is a Florida dealer and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by the marketplace provider.

(d) A “remote sale” means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this paragraph, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(e) A “remote seller” means a person who makes a substantial number of remote sales outside of a marketplace. Marketplace providers and marketplace sellers who make a substantial number of remote sales outside of a marketplace are considered remote sellers.

(f) A “substantial number of remote sales” means any number of taxable remote sales in the previous calendar year in which the sum of the sales prices, as defined in s. 212.02(16), F.S., exceeded \$100,000.

(2) Marketplace providers and remote sellers required to collect and remit sales tax and discretionary sales surtax due on retail sales to persons in Florida must register with the Department electronically as provided in Rule 12A-1.060, F.A.C.

(3)(a) A marketplace provider must certify to its marketplace sellers that it will collect and remit any Florida sales tax, plus applicable discretionary sales surtax, due on retail sales made through the marketplace to persons in Florida. This certification may be included in the agreement between a marketplace seller and a marketplace provider.

(b) A marketplace seller who makes sales outside a marketplace must collect and remit Florida sales tax, plus applicable discretionary sales surtax, on retail sales made outside the marketplace to persons in Florida if they made a substantial number of remote sales in the previous calendar year. When determining whether a marketplace seller

made a substantial number of remote sales, only those sales made outside of the marketplace are included in the total amount of taxable remote sales.

(4)(a) The following dealers must timely file Florida sales and use tax returns and remit sales tax and discretionary sales surtax to the Department by electronic means.

1. A marketplace provider that is a dealer under Chapter 212, F.S.
2. A person who is required to collect and remit sales tax on remote sales.

(b) Returns and payments must be submitted to the Department by electronic means as provided in Rule 12A-1.056, F.A.C., and Rule Chapter 12-24, F.A.C.

Cross Reference: Rule 12A-15.003, F.A.C.

(5) Marketplace Seller notification to collect sales tax.

(a) Effective April 1, 2022, a marketplace seller may collect and remit all applicable taxes and fees on its sales made through a marketplace provider when all of the following conditions are met:

1. The marketplace seller and the marketplace provider have contractually agreed that the marketplace seller will collect and remit all applicable taxes and fees on its sales made through the marketplace.
2. The marketplace seller has registered with the Department as a dealer under s. 212.18, F.S., and has provided evidence of registration to the marketplace provider.
3. The marketplace seller has annual United States gross sales of more than \$1 billion, including the gross sales of any related entities or the combined sales of all franchisees of a single franchisor.
4. The marketplace seller has sent written notification to the Department as provided in paragraph (b).

(b) The notice must be on the marketplace seller's business letterhead, state that the marketplace seller meets all conditions stated in s. 212.05965(11), F.S., and has chosen to collect and remit all applicable taxes and fees for its sales made through a marketplace provider. The notice must be signed by an individual authorized to sign on behalf of the marketplace seller. The notice may be delivered in one of three ways:

1. A letter can be mailed to the following mailing address:

Account Management MS 1-5730

Florida Department of Revenue

5050 W Tennessee St.

Tallahassee, FL 32399-0160

2. A scanned letter can be emailed to registration@floridarevenue.com.

3. A letter can be faxed to 850-922-0859.

(c) Sample Notice.

1. The notice may take any form as long as it clearly states that the marketplace seller is electing to collect all applicable taxes and fees for its sales made through a marketplace provider.

2. The notice must be signed by an authorized individual of the marketplace seller.

3. An example of notice language is as follows: “In accordance with Section 212.05965(11), F.S., (Name of Marketplace Seller, sales and use tax certificate number) has met the statutory requirements that allow it to collect and remit all applicable taxes and fees for its sales made through (name of Marketplace Provider) and that it is liable for failure to collect or remit those taxes and fees. For questions, please contact (name of Marketplace Seller contact person) at (contact telephone number or email address).”

Rulemaking Authority ~~212.17(6)~~, 212.0596(3), 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(14)~~, ~~(21)~~, 212.05, 212.0596, 212.05965, 212.06(2), ~~(5)~~, ~~212.12(4)~~, 212.18(3), 213.37 ~~212.20(4)~~, ~~215.26(2)~~ FS. History—New 12-8-87, Amended 8-10-92, 4-17-03, XX-XX-XX.

12A-1.104 Sales of Property to be Transported to a Cooperating State.

Rulemaking Authority 212.06(3)(b)2., 212.18(2), 213.06(1) FS. Law Implemented 212.06(3) FS. History—New 12-8-87, Amended 12-31-20. Repealed—XX-XX-XX.

12A-1.108 Exemption for Data Center Property.

(1) through (6) No change

(7) Except as provided in paragraph (5)(b), the exemption provided for data center property is a permanent exemption for qualifying data centers that apply for and receive a Data Center Property Temporary Tax Exemption Certificate during the period from July 1, 2017, through June 30, 2027 ~~2022~~, and then meet all requirements for the Data Center Property Certificate of Exemption within five years. The Department will not process applications for Data Center Property Temporary Tax Exemption Certificate after June 30, 2027 ~~2022~~.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(s) FS. History—New 4-16-18, ~~XX-XX-XX~~.

12A-1.112 Sales Tax Paid by Dealers on Behalf of Purchasers

(1) Dealers engaged in any business subject to tax pursuant to Chapter 212, F.S., may not, except as provided in subsection (2), advertise or hold out to the public, directly or indirectly, any of the following:

- (a) The dealer will pay all or any part of the tax.
- (b) The dealer will relieve the purchaser of all or any part of the tax.
- (c) The tax will not be added to the selling price of the property or services sold or released.
- (d) The tax or any part of the tax, when added, will be refunded.

(2) A dealer may advertise or hold out to the public that the dealer will pay all or any part of the tax on behalf of the purchaser, only when the purchaser is given a charge ticket, sales slip, invoice, or other tangible evidence of the sale that satisfies the following conditions:

- (a) It is expressly stated that the dealer will pay to the state any part of the tax imposed pursuant to Chapter 212, F.S., which was not collected from the purchaser.
- (b) The sales price and the amount of tax due are separately stated.
- (c) Dealers may not indicate or imply that a transaction is exempt or excluded from tax.

Rulemaking Authority 212.18(2), 213.06(1), FS. Law Implemented: 212.07(4). History—New ~~XX-XX-XX~~.