

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 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-1.004 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9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 6-19-01, 11-1-05, 9-1-09, 1-17-18, Repealed XX-XX-XX.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 (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(7)(gg) ~~212.08(6), (7)~~, 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)

PROPOSED EFFECTIVE DATE: January 1, 2022

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* (DR-1MP, effective XX/XX, 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(4), (2), 212.05956, 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>XX/XX</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>XX/XX</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	<u>07/21</u> 01/21

	(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____42311)	
(c) through (d)	No change	
(e) DR-15EZ	Instructions for DR-15EZ Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____42312)	<u>07/21</u> 01/21
(f) through (k)	No change	
(6) through (10)	No change	
(11)(a) DR-46NT	Nontaxable Medical Items and General Grocery List (http://www.flrules.org/Gateway/reference.asp?No=Ref-11384)	01/20
(b) DR-46NT	<u>Nontaxable Medical Items and General Grocery List</u> (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)	<u>01/22</u>
(12) through (24)	No change	

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.0596(3), 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.

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(1)~~, 212.18(3), ~~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~~.