

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. 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) It is required that either:

1. The seller collecting the charge for an admission prominently display, at the box office or other place where the admission charge is collected, a sign or other easily read notice disclosing the price of the admission; or
2. The face of each ticket sold reflect the actual sales price of the admission.

(c)1. The tax 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. An agent who collects admissions on behalf of a principal may forward the collected tax funds to the principal to be remitted by the principal to the Department. Both the principal and agent can be held liable for any failure to timely remit such tax funds to the Department. An agent shall not, however, be liable for its principal's failure to timely remit tax funds to the Department if the agent has obtained the principal's active Florida sales tax number and has disclosed in writing to the principal that when such agent remits proceeds from the sale of an admission to the principal the proceeds may include amounts that represent admissions tax and that it is the principal's obligation to timely remit any taxes due and owing to the Department or other taxing authority.

3. When tickets or admissions are sold and not used but are instead returned to the seller, the seller shall credit or refund the sales tax to the purchaser. See Rule 12A-1.014, F.A.C., for the methods the seller is to use to obtain a credit or refund.

4. A refundable deposit that is paid to reserve the right to purchase season tickets, box seats, or other admissions, that is recorded on the books of the seller as a liability, and that does not entitle the payer to the right to be admitted to the event or events, is not subject to tax. If the refundable deposit is applied to the purchase of the season tickets, box seats, or other admissions, tax is due to the Department as provided in this paragraph.

(d) Operators of traveling shows, exhibitions, amusements, circuses, carnivals, rodeos, and similar traveling events shall, upon request of an agent of the Department of Revenue, produce a cash receipt or similar documentation evidencing payment to the State of admission taxes due on any or all previous engagements in Florida during their current tour and an itinerary of future engagements in this State during the current year. The operator must document any performance in Florida that is sponsored by a not-for-profit entity that qualifies under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, for which the admission charges are exempt from tax.

(2) Exempt admissions. The following admissions are exempt from the tax imposed under Section 212.04, F.S.:

(a) Admissions to athletic or other events held by schools, as provided in Section 212.04(2)(a)1., F.S., are exempt.

(b) Admissions for students who are required to participate in a sport or recreation, provided the program or activity is sponsored by and under the jurisdiction of the educational institution and attendance is as a participant and not as a spectator are exempt. The institution will issue a certificate for the student to present to the person charging the admission in order to provide for this exemption.

(c) Admissions to agricultural fairs are exempt, as provided in Sections 212.08(7)(gg) and 616.260, F.S.

(d) Admissions to the following professional or collegiate sporting events are exempt, as provided in Sections 212.04(2)(a)5. and 10., F.S.;

1. National Football League championship game or Pro Bowl;
2. Major League Baseball, Major League Soccer, National Basketball Association, or National Hockey League all-star game and Major League Baseball Home Run Derby held before the Major League Baseball all-star games;
3. National Basketball Association all-star events produced by the National Basketball Association and held at a facility such as an arena, convention center, or municipal facility;
4. Any semifinal or championship game of a national collegiate tournament or any postseason collegiate football game sanctioned by the National Collegiate Athletic Association;

5. Any FIFA World Cup match sanctioned by the Fédération Internationale de Football Association (FIFA), including any qualifying match held up to 12 months before the FIFA World Cup matches;

6. Any Formula One Grand Prix race sanctioned by Fédération Internationale de l'Automobile, including any qualifying or support races held at the circuit up to 72 hours before the grand prix race;

7. The Daytona 500 sanctioned by the National Association for Stock Car Auto Racing, including any qualifying or support races held at the same track up to 72 hours before the race.

(e) Participation fees or sponsorship fees to athletic or recreational structured programs imposed by governmental entities as described in Section 212.08(6), F.S., when such governmental entities sponsor, administer, plan, supervise, direct, and control such athletic or recreational programs are exempt. An organization qualified under s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, may work in conjunction with the governmental entity to sponsor, administer, plan, supervise, direct, and control the athletic or recreational structured program without affecting the exemption.

1. Example: A city or county park and recreation department sponsors, administers, plans, supervises, directs, and controls its adult softball, little league, and other team recreation programs. The park and recreation department charges \$100.00 for each team participating, or it may charge \$10.00 per person for each person to participate. At the end of league play, a tournament is held to determine the championship. The participation fees charged for league and tournament play are exempt from tax as an athletic structured program.

2. Example: A city operates a swimming pool. It charges an admission price of \$2.00 for each adult and \$1.00 for each child to enter the pool. The admission charges are taxable since this is not a structured athletic or recreational program.

3. Example: A city or county park and recreation department sponsors, administers, plans, supervises, directs, and controls pottery and ceramics classes. The park and recreation department charges each person \$20.00 to participate. The participation charges are exempt as a recreational structured program.

4. Example: A not-for-profit organization that is not qualified under s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, sponsors a softball tournament and charges each team \$250 to participate. The organization rents the softball field from the city. The \$250 participation fee is subject to tax. If the organization is not registered to collect and remit sales tax, the organization must contact the local taxpayer service center to obtain a special events sales tax remittance number. The rental of the ball field by the city to the organization is taxable, unless the not-for-profit organization holds a Consumer's Certificate of Exemption and issues a copy of its certificate to the city.

(f) Dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations are exempt. To receive this exemption, the organization making any such charges must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(g) Admission charges to an event held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility are exempt when:

1. The event is sponsored by a sports authority or commission, exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, as amended, that is contracted with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community or is sponsored by a governmental entity;

2. 100 percent of the funds at risk belong to the sponsoring entity;

3. 100 percent of the risk of success or failure lies with the sponsoring entity; and,

4. The talent for the event is not derived exclusively from students or faculty.

(h) Entry fees for participation in fresh water fishing tournaments, as provided in Section 212.04(2)(a)7., F.S., are exempt.

(i) Participation or entry fees charged to participants in a game, race, or other sport or recreational event when spectators are charged a taxable admission to such event, as provided in Section 212.04(2)(a)8., F.S., are exempt.

(j) Admissions charged by physical fitness facilities owned or operated by any hospital licensed under Chapter 395, F.S., as provided in Section 212.02(1), F.S., are exempt.

(k) Admissions to live theater, live opera, or live ballet productions, as provided in Section 212.04(2)(a)6., F.S., are exempt. The application required in Section 212.04(2)(a)6., F.S., should be addressed to:

Department of Revenue

Central Registration

P.O. Box 6480

Tallahassee, Florida 32314-6480.

(3) Taxable admissions and participation fees. The following paragraphs contain examples of admission charges that are subject to tax, unless such admissions are specifically exempt under the provisions of Section 212.04(2), F.S. This list is not intended to be an exhaustive list.

(a) Admissions to any place of amusement, sport, or recreation are subject to tax.

(b) Admissions to places of amusement, operated under the supervision of the State Racing Commission and any admissions to such place for events not under the supervision of the State Racing Commission, are subject to tax.

(c) Admissions to attractions, shows, carnivals, exhibitions, and to fairgrounds that do not qualify for exemption under the provisions of Sections 212.08(7)(gg) and 616.260, F.S., are subject to tax. Fairgrounds shall be deemed to mean any area for which a charge is made to view exhibits or entries.

(d) Charges to attend consumer trade shows and exhibitions are subject to tax.

(e) Charges made at carnivals, fairs, amusement parks, and similar locations for rides, such as on merry-go-rounds, roller coasters, ferris wheels, and similar rides, are admissions subject to tax.

(f) Charges for live pony rides are admissions subject to tax.

(g) Charges made for the privilege of bowling, golfing, swimming, using trampolines, for playing billiards, ping pong, tennis, squash, badminton, slot racing, go-kart racing, and similar sports are admissions subject to tax.

(h) Admissions to theatres, mini-theatres, outdoor theatres, and shows are subject to tax.

(i) Charges made for participation in saltwater fishing tournaments are subject to tax.

(j) Charges made for the privilege of entering or engaging in any kind of activity for which no admission charge is made to spectators are subject to tax. When spectators are charged a taxable admission to a game, race, or other sport or recreational event, the participation or entrance fees are exempt. The purchase of taxable items used by the sponsoring entity are subject to tax, even though receipts from charges for the participation or entrance fees are used to make such purchases.

1. Example: A private golf club hosts a local tournament and charges \$100.00 entry fee from all participants with no admission charge made to spectators. The entry fee covers the greens fees, cart rental, and a meal for each participant, with the excess being used to purchase gifts, gift certificates, and trophies to be given to the winners. The entry fee is subject to tax, even if the charge for each item is separately itemized. The purchase of gifts, trophies, and other promotional items by the club is subject to tax. If the club is donating a gift that it has in its inventory for sale, the club is required to accrue and remit the tax on the cost of the gift at the time it is removed from inventory. When the winning participants are given gift certificates to be used to purchase merchandise from the club, the club is deemed to be selling the merchandise, and it shall collect the tax from the gift certificate holders at the time the merchandise is sold.

2. Example: A sponsoring golf association enrolls participants to participate in a tournament for a fee of \$100.00 with \$20.00 of the fee attributable to organizational services provided by the sponsor and \$80.00 attributable to the club's charges for an unlimited number of rounds and the use of a golf cart, with the excess being used to purchase gifts, gift certificates, and trophies to be given to the winners. No tax is due on the \$100.00 fee paid by the participant to the sponsoring organization. The \$80.00 entry fee paid by the sponsoring organization to the club is taxable, even if the charge for each item is separately itemized. The purchase of gifts, trophies, and other promotional items by the club is subject to tax. When participants are given gift certificates to be redeemed for merchandise from the club's pro shop, the club is deemed to be selling the merchandise and shall collect tax from the gift certificate holders at the time the holder redeems the certificate for merchandise.

(k)1. When the owner of a boat or vessel operated as a "head-boat" or "party boat" supplies the crew, which remains under the control and direction of the owner, and makes a charge measured on an admission or entrance or length of stay aboard the vessel for the privilege of participating in sightseeing, dinner cruises, sport, recreation, or similar activities including fishing, the charge is taxable as an admission.

2. The charge made by an owner or operator for chartering any boat or vessel, with a crew furnished, solely for the purpose of fishing is exempt.

3. Charges made by foreign registered vessels carrying passengers to international waters where passengers cannot disembark from the vessel at points other than the origination point (cruises to nowhere) are taxable. If the vessel docks, and passengers can disembark, the charge is considered to be for transportation and is exempt from tax.

(l) Charges measured on an admission or entrance or length of stay for rides on sightseeing trolley cars, sightseeing buses or trains, or any sightseeing or amusement ride where the participant is normally returned to the origination point are taxable. This does not apply to:

1. Charter or regularly scheduled aircraft, bus, taxi, trolley, or train travel where the passengers may disembark for shopping, dining, or other activities at points other than the origination point; or

2. Individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, pursuant to 49 U.S.C. s.40116.

(m) Charges made for tethered hot air balloon rides are taxable.

(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, 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. Charges for initiation into, or for joining, an organization that are paid by persons to obtain an equitable ownership interest in the organization. The equitable ownership interest may be transferrable, with or without consideration, directly to another party or to the organization.

b. Additional charges paid by an equity member when joining an organization that are used by the organization solely for capital expenditures, capital improvements to the organization's facilities, or for debt servicing such expenditures and improvements by the organization. Examples of these types of payments and the use of such amounts include amounts expended for rebuilding and/or replacing the grass on greens or fairways; rebuilding and/or replacing bunkers; planting of additional trees; resurfacing and/or construction of tennis courts; resurfacing and/or construction of swimming pools; amounts expended for new furniture, fixtures and equipment; amounts expended for clubhouse renovations; amounts expended for kitchen equipment and utensils; amounts expended to improve the irrigation system; amounts expended to acquire assets to enable the club to comply with environmental laws; amounts expended for acquiring maintenance equipment; amounts expended for new golf carts; and amounts expended for the installation of equipment on golf carts. Repairs to, or maintenance of, existing capital assets that do not materially add to the value or appreciably prolong the useful life of a capital asset are not deemed to be capital expenditures or capital improvements by the organization.

c. Capital assessments levied by an organization against persons who are, or seek to become, members of the organization.

d. Capital contributions or additional paid-in capital paid to an organization by individuals who have an equitable ownership interest in the organization.

2. Recurring or nonrecurring capital contributions or additional paid-in capital, or capital assessments, paid to an organization in a lump sum or by installments, are not subject to tax when such payments are:

a. Separately accounted for and not recorded in an operating revenue account by the organization.

b. Not paid for the right to use the organization's recreational, physical fitness, or other facilities or equipment without subsequent periodic payments;

c. Not used to effect a decrease in user fees or periodic membership dues; and,

d. Not used to pay for the operating expenses of the organization.

(b) For purposes of this rule:

1. The phrase, "equitable ownership interest," means an interest that entitles a person to receive from the organization evidence or indicia of such ownership, the right to vote on decisions of the organization that are subject to determination by the organization's members or owners, and the right to receive a proportionate share of the organization's assets upon its dissolution, unless all such net assets are distributable upon dissolution to an organization exempt from federal income taxation or to a qualifying common interest realty association. The ownership interest must be reflected by the issuance of stock, a membership certificate, or similar instrument evidencing an ownership interest in the organization.

2.a. The phrases "capital contributions" or "additional paid-in capital" mean equity payments that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are intended as an investment to maintain or enhance members' and owners' interests in the organization.

b. The phrase "capital assessments" means payments made by members of an organization that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are used solely for capital expenditures, for capital improvements to the organization's facilities, or for direct allocation to debt servicing such expenditures and improvements by the organization.

(c) Fees paid to private clubs or membership clubs as a condition precedent to, in conjunction with, or for the use of the club's

recreational or physical fitness facilities are subject to tax. Examples of such fees are:

1. User fees paid by members or nonmembers to an organization that entitle the payor to use the organization's recreational or physical fitness facilities or equipment.
2. Dining room minimum fees.
3. Social membership fees when such payments are required of members who hold no equitable interest in, or ownership of, the club.
4. Periodic payments required to be paid by members or any payment required of a nonmember in order to use the club's facilities.

(d) Fees paid to private clubs or membership clubs that do not entitle the payor to the use of the club's recreational or physical fitness facilities are not subject to tax. Examples of such fees are:

1. Charges to members or nonmembers to establish or maintain a handicap, ranking, or average.
2. Charges for professional instructions in any sport conducted at the club, so long as such charges are exclusively for the instructions and include the use of the facility only during the period of time the instructions are taking place. It is not the intention of this rule to allow a club to exempt what is in effect a dues or membership fee by labeling such charges as instruction fees.
3. Mandatory dues and fees paid to a condominium association, homeowners' association, or cooperative association when they are required to be paid as a condition of ownership or occupancy of real property and the club facilities are part of the common elements or common areas of the real property.

(e) Refundable deposits advanced to an organization when the organization is obligated to repay the deposit and the deposit is reflected as a liability in the organization's books and records are not subject to tax. The organization's obligation to repay refundable deposits must be evidenced by a promissory note, a bond, or other written documentation.

(f) Dues and fees paid by persons for membership in clubs that do not entitle the members to use recreational or physical fitness facilities are not subject to tax. Examples of such clubs are sewing clubs, bowling clubs, square dancing clubs, bridge clubs, and gun clubs where the dues or fees entitle the payor to be a member of the club, but do not entitle the payor to use recreational or physical fitness facilities.

(5) Resale of admissions.

(a) There is no tax exempt sale for resale of an admission. If a purchaser of an admission resells the admission for more than he paid for the admission, he shall collect tax on his sales price, take a credit for the amount of tax previously paid on the admission, and remit the balance to the Department of Revenue.

(b) When the purchaser of an admission resells the admission for the same amount or less, tax shall not be collected, and no credit is allowed for tax previously paid.

(c)1. When an admission is resold to an entity exempt from sales tax, the selling dealer may claim a credit or seek a refund from the Department for the amount of tax it paid on its purchase of the admission. This provision does not apply to sales of admissions to an exempt entity for resale. To receive a refund of tax paid on an admission that is resold to an entity exempt from sales tax, the selling dealer must file an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department within 3 years after the date the tax was paid. The applicant shall include the exempt entity's Consumer's Certificate of Exemption, or other applicable proof of the entity's exempt status, as well as a copy of the documentation that provides evidence of the tax the applicant paid for the admission that was subsequently resold, such as a ticket or invoice. In lieu of filing an application for refund for tax paid on an admission that is resold to an entity exempt from sales tax, the selling dealer may claim a lawful deduction on its sales and use tax return. The selling dealer must retain copies of the supporting documentation necessary to substantiate its entitlement to a refund or credit of tax paid until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under Section 95.091, F.S.

2. The purchaser of an admission that is resold to an entity exempt from sales tax may seek a refund of the tax paid on the admission directly from the selling dealer when the purchaser and selling dealer are members of the same controlled group of corporations for federal income tax purposes. If the related selling dealer has remitted the tax collected from the related purchaser to the Department it may claim a credit or seek a refund from the Department for the sales tax that it refunded to the related purchaser by obtaining the supporting documentation and following the procedures provided in paragraph (5)(c). If the related selling dealer has not remitted the tax collected from the related purchaser, the selling dealer should retain copies of the supporting documentation necessary to substantiate its entitlement to a refund or credit in lieu of remitting the tax to the Department. The documentation must be retained until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under Section 95.091, F.S.

(6) Sales of vacation packages.

(a) For purposes of this subsection, a “vacation package” means a bundle consisting of two or more components, such as admissions, transient rentals, transportation, or meals. Coupon books, maps, or other incidental items, that are provided free of charge as part of a vacation package are not considered “components” for purposes of this subsection.

(b) Tax is due on the purchase of taxable components of a vacation package at the time of purchase. No additional tax is due on the components that are incorporated into a vacation package and sold by a travel agent, when all of the following conditions are met:

1. The vacation package sold by the travel agent includes two or more components;
2. There is no separate itemization of the sales price of the package for the admission, transient rental, transportation, meal, or any other component of the vacation package; and,
3. All components of the vacation package were purchased by the travel agent from other parties and any sales tax due on such purchases was paid at the time of purchase.

(c) A travel agent who itemizes the sales price of the taxable components of a vacation package must register with the Department as a dealer. (See Rule 12A-1.060, F.A.C., Registration). Travel agents who itemize the sales price of the taxable components of a vacation package are required to collect tax from the purchaser as follows:

1. When the itemized components are sold for the same amount or less than was paid for each of them, the travel agent is not required to collect any additional tax. No credit is allowed for tax paid on the purchase of the taxable components.
2. When the itemized components are sold for more than the purchase price of each component, the travel agent is required to collect tax on the sales price of the taxable components. The travel agent may take a credit of tax previously paid for the taxable components that are separately itemized at a sales price greater than the purchase price of the component.

(d) When the seller of components of a vacation package and the purchasing travel agent are members of the same controlled group of corporations for federal income tax purposes and the amount charged for the component is an amount less than the price charged to unrelated travel agents under normal industry practices, the related travel agent is required to itemize the sales price of the components to the purchaser and collect tax on the itemized taxable components. The travel agent may take a credit of tax previously paid for the taxable components.

Rulemaking Authority 212.04(4), 212.17(8), 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, 6-14-22, 10-26-22.

12A-1.059 Fuels.

(1)(a) The sale of fuel, including crude oil, fuel oil, kerosene, sterno, diesel oil, natural and manufactured gas, coke, charcoal briquets, cord wood, and other fuel products is taxable. Natural and manufactured gas is exempt when separately metered and sold for use in residential households (including trailer lots) directly to the actual consumer by utilities who are required to pay the gross receipts tax imposed by Section 203.01, F.S. The exemption for residential households (including trailer lots) also includes L. P. gas, crude oil, fuel oil, kerosene, diesel oil, coke, charcoal briquets, cord wood, and other household fuels. Such sales of utilities and fuels are exempt regardless of whether such sales are billed to the landlord; provided, however, that if any part of the utility or fuel is used for a non-exempt purpose, the entire sale is taxable. Landlords shall provide separate meters for any non-exempt consumption of utilities or fuels. This exemption shall also apply to the sale of utilities and fuels used in residential model homes or common areas of apartments, cooperatives, and condominiums provided that none of the utilities or fuels are used in residential model homes which are used as sales offices or for other non-exempt purposes. No exemption certificate or affidavit is required to be obtained by a dealer of special fuel or a dealer of liquefied petroleum gases when the fuel is sold and delivered into the customer's storage facility located on the customer's residential premises, when the fuel is for the purposes of home cooking or home heating. Hotels and motels cater primarily to transient guests and are not considered to be residential households. Therefore, this exemption shall not apply to utilities or fuels sold for use in hotels and motels.

(b) The charge for the filling of liquefied petroleum (L.P.) gas tanks, including tanks used in recreational vehicles, is exempt when the L.P. gas will be used by the purchaser for the purposes of residential heating, cooking, lighting, or refrigeration. The dealer must document on the customer's invoice or other written evidence of sale that the charge is for filling a L.P. tank with the gas sold for the purposes of residential household cooking, heating, lighting, or refrigeration.

(2)(a) "Boiler" fuels. When purchased as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste as defined in Section 403.703(35), F.S., coal, sulfur, hydrogen, wood, wood residues, or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state is exempt. For the purpose of this exemption, the term "residual oil" means ASTM Grades No. 5 and No. 6, heavy diesel, and bunker C. This exemption does not apply to any type of liquefied petroleum gases, naphtha, kerosene, or distillate fuel oil, such as diesel fuels, No. 1 and No. 2 heating oils, and No. 4 fuel oil. The term "fixed location" means being permanently affixed to one location or plant site, or any portable plant which may be set up for a period of not less than six months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. To be entitled to this exemption at the time of purchase, the purchaser must issue the seller a certificate stating that the combustible fuel is used in an industrial manufacturing, processing, compounding, or production process. The following is a suggested format of a certificate to be used for this purpose:

SUGGESTED PURCHASER'S EXEMPTION CERTIFICATE

BOILER FUELS USED TO PRODUCE TANGIBLE PERSONAL PROPERTY FOR SALE

I, the undersigned individual, hereby certify that I am the purchaser or the purchaser's agent or representative authorized to act for _____ (PURCHASER) in the purchase of boiler fuels. The purchases of natural gas, residual oil, recycled oil, waste oil, solid waste as defined in Section 403.703(35), Florida Statutes, coal, sulfur, hydrogen, wood, wood residues, or wood bark from _____ (SELLER) under account number _____ will be exclusively used as a combustible fuel in the manufacturing, processing, compounding, or production of tangible personal property for sale. This industrial process is located at _____ (ADDRESS) in _____, Florida.

I further certify that _____ (PURCHASER) is not subject to regulation by the Division of Hotels and Restaurants, Department of Business and Professional Regulation, and the purchase of combustible fuel as identified in this certificate is exempt from sales and use tax as provided in Section 212.08(7)(b), Florida Statutes.

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

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

Signature of Purchaser or Purchaser's Agent or Representative

Title

Date

(b) The sale of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale is subject to tax. The sale of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation is subject to tax.

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees; Rules 12A-1.087 and 12B-5.130, F.A.C.

(3)(a) Natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment is exempt. To purchase natural gas used for this purpose tax-exempt, the purchaser is required to provide an exemption certificate to the selling dealer declaring that the natural gas will be used to generate electricity in a non-combustion fuel cell used in stationary equipment. The following is a suggested format of a certificate:

EXEMPTION CERTIFICATE
NATURAL GAS USED TO GENERATE ELECTRICITY
IN A NON-COMBUSTION FUEL CELL USED IN STATIONARY EQUIPMENT

I certify that natural gas purchased on or after _____ (Date) from _____ (Selling Vendor's Name) will be used to generate electricity in a non-combustion fuel cell used in stationary equipment.

I understand that if I use the purchased natural gas for any nonexempt purpose, I must pay tax on the purchase price of the natural gas directly to the Florida Department of Revenue.

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

Under the penalties of perjury, I declare that I have read the foregoing Certificate and the facts stated herein are true.

SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

TITLE OR DESIGNATION

DATE

(4)(a) Dyed diesel fuel used in a trade or business is subject to use tax. Every person who uses dyed diesel fuel in a trade or business is required to register as a dealer to remit use tax due on the total cost price of the fuel consumed, unless:

1. The diesel fuel is specifically exempt from sales tax; or
2. The dealer selling diesel fuel has elected to collect sales tax on sales to persons who use or consume the diesel fuel in a trade or business.

(b) The following sales or purchases of diesel fuel are exempt from sales and use tax:

1. Fuel upon which the fuel taxes imposed under Chapter 206, F.S., have been paid;
2. Fuel used for certain agricultural purposes, as provided in Rule 12A-1.087, F.A.C.; and,
3. Fuel purchased or stored for purposes of resale.

(5) Dyed diesel fuel used by a licensed common carrier to operate railroad locomotives or vessels used to transport persons or property for hire in interstate or foreign commerce is subject to the partial exemption provided in Section 212.08(4)(a)2., F.S. Tax is based on the mileage apportionment factor of the licensed carrier or vessel owner or operators. Dyed diesel fuel used exclusively for commercial fishing and aquacultural purposes is exempt. See Rules 12A-1.064 and 12A-1.0641, F.A.C.

(6) Natural gas fuel as defined in Section 206.9951(2), F.S., natural gas, compressed natural gas, and liquefied natural gas are exempt from sales tax when placed into the fuel supply system of a motor vehicle.

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees; and Rule 12B-5.130, F.A.C.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 206.86(4), 212.05, 212.06(3), 212.08(4), (7), (8) FS. History—New 10-7-68,

Amended 6-16-72, 7-19-72, 12-11-74, 10-18-78, 7-3-79, 6-3-80, 12-23-80, 8-26-81, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.59, Amended 12-13-88, 5-19-93, 9-14-93, 3-20-96, 10-2-01, 4-17-03, 6-12-03, 5-9-13, 1-20-14, 10-26-22.

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

(1)(a) The sale, rental, lease, use, consumption, repair, including the sale of replacement parts and accessories, or storage for use of power farm equipment or irrigation equipment is exempt. To qualify for this exemption, the power farm equipment or irrigation equipment must be used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in Sections 570.02(1) and 581.217, F.S., or for fire prevention and suppression work with respect to such crops or products. Power farm equipment that is not purchased, leased, or rented for exclusive use in the agricultural production of agricultural products, or for fire prevention or suppression work with respect to such crops or products, does not qualify for exemption. This exemption is not forfeited by moving qualifying power farm equipment between farms or forests.

(b) The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under Section 212.08(3), F.S. The format of a suggested certificate is contained in subsection (10) of this rule.

(2) For purposes of this rule, the following definitions will apply:

(a) Agricultural industries, as defined in Sections 570.02(1) and 581.217, F.S., include aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(b) Agricultural production, as defined in Section 212.02(32), F.S., means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, including storage of raw products on a farm, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(c) Aquaculture products, as defined in Section 597.0015(3), F.S., means 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.

(d) Cultivating means the nurturing or the fostering of growth of an agricultural crop or product, including the elimination of weeds. Examples of cultivating include, but are not limited to: feeding, fertilizing, plowing, pruning, and spraying agriculture crops or products.

(e) Forest, as defined in Section 212.02(31), F.S., means the land stocked by trees of any size used in the production of forest products, or formerly having such tree cover, and not currently developed for nonforest use.

(f) Harvesting means the act or process of cutting, reaping, digging up, or gathering an agricultural product or crop from a place where grown. Harvesting does not include the processing of crops or products beyond any processing necessary for storage of raw products on the farm.

(g) Processing means the act of changing or converting the nature of a product after it has been harvested.

(3) The following is a nonexhaustive list of tax-exempt power farm equipment, as defined in Section 212.02(30), F.S.

(a) Aerators.

(b) All-terrain vehicles.

(c) Augers.

(d) Automated potting, transplanting, seeding, soil mixing, and flat filling equipment.

(e) Bale shredders.

(f) Backhoes.

(g) Boats and boat motors, purchased together or separately, for use in the agricultural production of aquaculture products on a farm.

(h) Bulldozers.

(i) Chainsaws.

(j) Combines.

(k) Conveyers.

(l) Corn, cotton, grain, and bean heads for use on combines.

(m) Cultivators.

(n) Disks.

(o) Drying equipment.

- (p) Electric Fans.
- (q) Feed mills (portable).
- (r) Feeding stations.
- (s) Feeding systems.
- (t) Feller bunchers.
- (u) Fertilizer spreaders.
- (v) Field trailers and wagons.
- (w) Forklifts, excluding forklifts used for processing farm products.
- (x) Front-end loaders.
- (y) Gassing equipment.
- (z) Goats, as defined in section 320.08(3)(d), F.S.
- (aa) Harrows.
- (bb) Harvesters.
- (cc) Hay balers, hay cutters, hay rakes, and tedders.
- (dd) Traveling “gun-type” and center pivot irrigation systems.
- (ee) Livestock feeders.
- (ff) Log loaders.
- (gg) Milking machines.
- (hh) Motorized pumps.
- (ii) Mowers.
- (jj) Planters.
- (kk) Plows.
- (ll) Power units, including electric-powered, fuel-powered, or solar-powered motors or engines.
- (mm) Refrigeration equipment.
- (nn) Scalpers.
- (oo) Scrapers, graders, and grade boxes.
- (pp) Skid steer loaders.
- (qq) Skidders.
- (rr) Sod cutters.
- (ss) Sod harvesters.
- (tt) Sorting equipment.
- (uu) Sprayers.
- (vv) Spreaders.
- (ww) Tractors.
- (xx) Tree bedders.
- (yy) Washing equipment.
- (zz) Wood chippers (field type).

(4)(a) The sales price for a trailer purchased by a farmer for exclusive use in agricultural production, or to transport farm products from the farm to the place where the farmer transfers ownership of the farm products, is exempt from tax. This exemption is allowed regardless of whether the trailer is required to be or is licensed as a motor vehicle under Chapter 320, F.S. This exemption does not apply to leases or rentals of trailers. The exemption for trailers under this paragraph will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under Section 212.08(3), F.S. The format of a suggested certificate is contained in subsection (10).

(b) The exemption granted for trailers does not apply to non-farmers such as haulers, contractors, loggers, and providers of crop services.

(c) Repairs, replacement parts, and accessories used for trailers licensed under Chapter 320, F.S., are taxable.

(5)(a) Persons engaged in the agricultural production of aquaculture products qualify for the exemption on their purchase or lease of a boat or boat motor to be used exclusively for aquacultural purposes. To qualify for exemption, such person must be registered with the Department of Agriculture and Consumer Services under Section 597.004, F.S., as a person engaged in

aquaculture. For purposes of this rule, a farm includes submerged sites leased from the state under the authority of Section 253.68, F.S., by a person engaged in aquaculture activities.

(b) Example: A clam farmer leases a submerged site from the state pursuant to Section 253.68, F.S., and is certified under Section 597.004, F.S., with the Department of Agriculture and Consumer Services. The clam farmer qualifies for the exemption on the purchase or lease of a boat used exclusively in the agricultural production of clams on the leased site. The exemption is not forfeited by moving boats between farms.

(6)(a) Power farm equipment does not include vehicles (including vehicles without power, such as cattle trailers and log trailers) that are required to be licensed as a motor vehicle under Chapter 320, F.S. However, a motor vehicle licensed as a “goat” under Section 320.08(3)(d), F.S., is exempt.

(b) Power farm equipment does not include equipment used for processing agricultural crops or products.

(7)(a) Generators, motors, and similar types of equipment used exclusively as a power source on a farm or in a forest, as provided in paragraph (1)(a), are exempt from tax. For example: a diesel-powered generator used to supply power to an irrigation pump qualifies for the exemption. A generator used to power equipment used in agricultural production also qualifies for the exemption.

(b) Generators purchased, rented, or leased for use on a poultry farm are exempt from sales tax under Section 212.08(5)(a), F.S. The exemption will not be allowed unless the purchaser or lessee issues to the seller a signed certificate stating the generator is purchased or leased for exclusive use on a poultry farm.

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

1. Sold for use in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.
2. Consumed in transporting farm vehicles and farm equipment between farms.
3. Sold for use to heat a structure in which started pullets or broilers are raised.
4. Sold for use to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.
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) Liquefied petroleum gas, diesel, and kerosene sold for use in any tractor or vehicle driven or operated upon the public highways of the state is subject to tax.

(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) For purposes of this subsection, a farm means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(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)(e)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) Any person who purchases items that qualify for the exemption under Section 212.08(3), F.S., must issue an exemption certificate to the selling dealer to purchase qualifying power farm equipment tax-exempt. Any purchaser who purchases items for agricultural purposes must also issue an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name and address, the reason for which the use of the item qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser.

(b) Seeds, including field, garden, and flower seeds are exempt. The purchaser is not required to issue an exemption certificate to the selling dealer to purchase seeds tax-exempt.

(c) 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.

(d) Dealers who accept in good faith the required certificate from the purchaser or lessee will not be assessed sales tax on sales of power farm equipment or items for agricultural use or for agricultural purposes. In such instances, the Department will look solely to the purchaser or lessee for any additional sales or use tax due.

(e) Selling dealers may contact the Department at 1(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).

(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 products 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 products 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.
- ☐ Hog wire and barbed wire fencing, including gates and materials used to construct or repair such fencing, used in agricultural production on lands classified as agricultural lands under Section 193.461, F.S. Materials used to construct or repair hog wire and barbed wire fencing means those materials that are incorporated into and become a component part of the constructed or repaired fencing, such as: welded or barbed wire; hog or barbed wire fence rolls; lumber or steel for posts or rails; nails, screws, hinges; and concrete consisting of premixed dry mortar or other components.
- ☐ 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 sections 570.02(1) and 581.217, 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 sections 570.02(1) and 581.217, 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 sections 570.02(1) and 581.217, 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 sections

570.02(1) and 581.217, F.S.

() A trailer purchased by a farmer that is used exclusively in an agricultural production or to transport farm products from the farmer's farm to the place where the farmer transfers ownership of the farm products to another. This exemption does not apply to the lease or rental of a trailer. The exemption is not forfeited by using the trailer to transport the farmer's equipment.

() 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

(11) Postharvest Machinery and Equipment.

(a) For purposes of this rule, the following definitions will apply:

1. "Postharvest activities" means services performed on crops after their harvest with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling. Examples of qualifying postharvest activities are: Banana ripening, bean cleaning, corn drying and shelling, delinting cotton seed (not including cotton ginning), grain cleaning and drying, grain grinding (not including custom grinding for animal feed), nut drying, hulling and shelling, seed cleaning and processing for postharvest propagation, sorting, grading, cleaning and packing fruits and vegetables, sun drying fruits and vegetables, tobacco grading (not including stemming and redrying), and waxing fruits and vegetables.

2.a. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced.

b. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their

installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

4. "Qualifying business" means a business classified under code 115114 of the NAICS (2007) whose primary business activity is one or more postharvest activities. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

(b) The sale and repair, including charges for labor, parts and materials, of postharvest machinery and equipment to a qualifying business is exempt. The exemption applies to the postharvest machinery and equipment at the business location where the postharvest activity occurs.

(c) Suggested Exemption Certificate for Postharvest Machinery and Equipment.

1. Any person who purchases items that qualify for the postharvest machinery and equipment 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 postharvest 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 postharvest machinery or equipment qualifying for exemption under Section 212.08(7)(kkk), 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 PURCHASER'S EXEMPTION CERTIFICATE
FOR POSTHARVEST MACHINERY OR 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 category of use:

- ☐ Postharvest machinery or equipment.
☐ Repairs to, or parts and accessories for, postharvest machinery or equipment.

I further certify that I qualify for an exemption from sales tax under Section 212.08(7)(kkk), F.S., for all eligible purchases made from this day forward and that:

- ☐ I am a qualifying business.
☐ The postharvest machinery and equipment being purchased will be used at a fixed location in Florida to perform postharvest activities, which are services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Examples include crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.
☐ Any parts and materials being purchased will be used to repair, and will be incorporated into, the machinery and equipment.

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.

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 _____

(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 subparagraph.

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 Section 775.082, 775.083, or 775.084, F.S.

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 212.18(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, 1-8-19, 12-12-19, 10-26-22.