

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

(1) Scope.

(a) Section 212.08(2), F.S., provides an exemption for certain items used in the practice of medicine by hospitals and healthcare entities or by physicians, dentists, and other licensed practitioners. This rule is intended to clarify the application of tax to items sold to hospitals and healthcare entities or to physicians, dentists, and other licensed practitioners for use in their practice of medicine. This rule is also intended to clarify the exemption for chemical compounds and test kits, common household remedies, drugs, eyeglasses and lenses, medical gases, and medical products, supplies, and devices.

(b) Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances), is intended to clarify the exemption provided in Section 212.08(2), F.S., for prosthetic and orthopedic appliances.

(c) Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), is intended to clarify the application of tax to items used in the practice of veterinary medicine, for the exemptions provided for substances possessing curative or remedial properties, and for medical products, supplies, and devices used in the treatment of animals.

(2) Licensed practitioners.

(a) For purposes of this rule, a “licensed practitioner” is any person who is duly licensed and authorized by laws of the State of Florida to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes.

(b) Hospitals, healthcare entities, and licensed practitioners are required to pay tax at the time of purchase on taxable items or services used or consumed in providing medical services. See Rule 12A-1.038, F.A.C., for purchases by hospitals or healthcare entities that hold a valid Consumer’s Certificate of Exemption issued by the Department.

(3) Drugs.

(a) Drugs and medicinal drugs used in connection with medical treatment are exempt. The term “drug” or “medicinal drug” means those substances or preparations commonly known as “prescription” or “legend” drugs that are required by federal or state law to be dispensed only by a prescription.

(b) Opaque drugs, including X-ray opaques, and radiopaque, such as the various opaque dyes and barium sulphate, that are used in connection with medical X-rays for the treatment of human bodies are exempt.

(4) Medical gases.

(a) Compressed medical gases and medical oxygen in compliance with the provisions of Rule 61N-1.007, F.A.C., are exempt.

(b) The charge for filling or refilling tanks containing compressed air or nitrox to be used for scuba diving is subject to tax.

(5) Common household remedies; cosmetics; toilet articles; hygiene products.

(a)1. Common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, according to a list prescribed and approved by the Department of Business and Professional Regulation and certified to the Department of Revenue, are exempt. This list is contained in Form DR-46NT, Nontaxable Medical and General Grocery List (incorporated by reference in Rule 12A-1.097, F.A.C.).

2. Common household items that are not intended to cure, mitigate, treat, or prevent illness or disease in human beings are subject to tax. For example, disinfectants used for the sterilization of glass, containers, utensils, or equipment are subject to tax; products used for the purification of air or for deodorants are subject to tax; chlorine used for the treatment of water in swimming pools is subject to tax.

(b) The exemption provided for common household remedies does not include cosmetics or toilet articles, even when the cosmetic or toilet article contains medicinal ingredients. Cosmetics and toilet articles, including those that contain medicinal ingredients, are subject to tax, except when dispensed pursuant to a prescription written by a licensed practitioner.

1. For purposes of this rule, “cosmetics” means any article intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance. The term includes articles intended for use as a compound of any such articles, such as cold creams, suntan products, makeup, and body lotions.

2. For purposes of this rule, “toilet articles” means any article advertised or held out for sale for grooming purposes and those articles which are customarily used for grooming purposes, regardless of the name by which they may be known, such as soaps, hair sprays, shaving products, colognes, perfumes, shampoos, and deodorants.

(c) Personal hygiene products, excluding the oral hygiene products listed in (d) and hygiene products dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(d) The following products are exempt from sales tax and do not require a prescription written by a licensed practitioner:

electric and manual toothbrushes, toothpaste, dental floss, dental picks, oral irrigators, and mouthwash.

(e) Contraceptive products, except when dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(f) Taxpayers who have a question regarding the taxable status of a product may submit a written description of the product, including the product name, ingredients, and recommended uses, to the Department. This request should be addressed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443.

(6) Medical products, supplies, or devices.

(a) "Medical products, supplies, or devices" are any products, supplies, or devices that are intended or designed to be used for a medical purpose to treat, prevent, or diagnose human disease, illness, or injury. The purpose is assigned to a product, supply, or device by its label or its general instructions for use.

(b) Unless specifically exempt, products, supplies, or devices sold to hospitals and healthcare entities or to licensed practitioners are subject to tax. Examples of items that do not qualify for exemption are: absorbent cotton; gloves, gowns, uniforms, masks, drapes, or towels; infusion pumps; reusable knives, needles, or scissors; scales; ear syringes; tongue depressors; specimen bags; instruments, equipment, and machines and their parts and accessories; microscopes; examination tables; hospital beds; X-ray machines; X-ray films and developing solutions; computerized axial tomography (CAT) machines; and magnetic resonance imaging (MRI) machines. This is not intended to be an exhaustive list.

(c)1. Medical products, supplies, or devices sold to hospitals, healthcare entities, or licensed practitioners are exempt when:

a. The medical product, supply, or device must be dispensed under federal or state law only by the prescription or order of a licensed practitioner; and,

b. The medical product, supply, or device is intended for use on a single patient and is not intended to be reusable.

2. Medical trays and surgical or procedure kits containing medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed practitioner and are intended for use on a single patient are exempt, even when the medical tray or kit contains one or more items that, when sold separately, would be subject to tax.

3. No exemption certificate or Annual Resale Certificate is required to be obtained by the selling dealer from the purchasing hospital, healthcare entity, or licensed practitioner to document exempt sales of medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed practitioner. However, selling dealers are required to maintain documents in their records evidencing that the medical product, supply, or device sold to a hospital, healthcare entity, or licensed practitioner is labeled to be dispensed only by the prescription or order of a licensed practitioner.

(d)1. Medical products, supplies, and devices used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease or incapacity of a patient(s) that are temporarily or permanently incorporated into a patient(s) by a licensed practitioner are exempt.

2. A licensed practitioner, or an authorized representative of the licensed practitioner, may extend an exemption certificate to the selling dealer certifying that the purchased medical products, supplies, or devices will be temporarily or permanently incorporated into a patient(s) for the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient(s). For example, a licensed dentist may purchase gold, silver, amalgam, or other dental restorative materials used for dental fillings exempt from tax by extending an exemption certificate to the supplier when those materials are not labeled "Rx only." A suggested exemption certificate is provided in subsection (11).

3. Any person that is not a licensed practitioner must register with the Department as a dealer, as provided in Rule 12A-1.060, F.A.C., to sell medical products, supplies, or devices in Florida. Registered dealers may purchase products, supplies, or devices for the purposes of resale, or materials to manufacture, compound, process, or fabricate such items for sale, by extending a copy of its Annual Resale Certificate to the selling dealer, as provided in Rule 12A-1.039, F.A.C.

4. No exemption certificate or Annual Resale Certificate is required to make purchases of medical products, supplies, or devices exempt from tax when:

a. The item is listed as an item exempt from tax in Form DR-46NT, Nontaxable Medical Items and General Grocery List; or,

b. The label of the medical product, supply, or device indicates that it must be dispensed under federal or state law by the prescription or order of a licensed practitioner and that it is intended for use on a single patient.

(e) Medical products, supplies, and devices are exempt when dispensed to a patient according to an individual prescription written by a licensed practitioner.

(7) Chemical compounds and test kits.

(a) The sale of chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury is

exempt. The following is a nonexhaustive list of chemical compounds and test kits that are not subject to tax:

1. Allergy test kits that use human blood to test for the most common allergens;
2. Anemia meters and test kits;
3. Antibodies to Hepatitis C test kits;
4. Bilirubin test kits (blood or urine);
5. Blood analyzers, blood collection tubes, lancets, capillaries, test strips, tubes containing chemical compounds, and test kits to test human blood for levels of albumin, cholesterol, HDL, LDL, triglycerides, glucose, ketones, or other detectors of illness, disease, or injury;
6. Blood sugar (glucose) test kits, reagent strips, test tapes, and other test kit refills;
7. Blood pressure monitors, kits, and parts;
8. Breast self-exam kit;
9. Fecal occult blood tests (colorectal tests);
10. Hemoglobin test kits;
11. Human Immunodeficiency Virus (HIV) test kits and systems;
12. Influenza AB test kits;
13. Middle ear monitor;
14. Prostate Specific Antigen (PSA) test kits;
15. Prothrombin (clotting factor) test kits;
16. Thermometers, for human use;
17. Thyroid Stimulating Hormone (TSH) test kits;
18. Urinalysis test kits, reagent strips, tablets, and test tapes to test levels, such as albumin, blood, glucose, leukocytes, nitrite, pH, or protein levels, in human urine as detectors of illness, disease, or injury;
19. Urinary tract infection test kits; and,
20. Vaginal acidity (pH) test kits.

(b) Chemical compounds and test kits that are not used to diagnose or treat human disease, illness, or injury are subject to tax. The following is a nonexhaustive list of chemical compounds and test kits that do not test for human illness, disease, or injury and are subject to tax:

1. Blood typing test kits for home use;
2. DNA tests (such as maternity tests, paternity tests, sibling ship tests, twin zygoty tests, ancestry testing, avuncular (grandparent, aunt, and uncle) tests, male lineage tests, or article tests);
3. Drug and alcohol (including nicotine) test kits;
4. Ethanol breathalyzer tests (alcohol intoxication);
5. Follicle stimulating hormone (FSH) test kits;
6. Hazard chemicals detection kits;
7. Male fertility (semen analysis) test kits;
8. Menopause monitors and test kits;
9. Ovulation/leutinizing hormone (LH) test kits;
10. Personal wellness or body balance check test kits, such as those to measure hormone levels, cortisol levels, melatonin levels, mineral levels, or antioxidant levels; and,
11. Pregnancy test kits.

(8) Prescribed parts and attachments.

(a) Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property to assist a person with special needs are exempt when purchased pursuant to an individual prescription. When purchased without an individual prescription, these items are subject to tax. For example, items installed on motor vehicles to make them adaptable for use by persons with special needs, such as special controls, purchased pursuant to a written prescription are exempt; however, the motor vehicle and the standard or optional equipment available on the motor vehicle are subject to tax.

(b) If tangible personal property is sold with special controls, lettering, or devices, and the additional charge for the added features is separately stated on the sales invoice for the tangible personal property, that charge for the added features is exempt when purchased pursuant to an individual prescription.

(9) Orthopedic, therapeutic, or corrective shoes.

(a) Orthopedic shoes made to specifications prescribed by a podiatrist, orthopedist, or other licensed practitioner for the purpose of treating or preventing illness or disease, or to correct physical incapacity are exempt. Therapeutic shoes and inserts prescribed by a licensed practitioner for purposes of treating diabetic foot disease and provided by a podiatrist, orthotist, prosthetist, or pedorthist are exempt.

(b) Shoes made to order for special fitting problems, such as narrow or large feet, are subject to tax.

(c) When a shoe is modified to specifications prescribed by a podiatrist, orthopedist, or other physician by the insertion of a lift, a wedge, or an arch support for the purpose of treating or preventing illness or disease, or to correct physical incapacity, the charge for the shoe is subject to tax. However, any reasonable separately stated charge for the modification is exempt. If no separate charge is made for the modification, the entire charge is subject to tax.

(d) When a shoe is modified for a more comfortable fit (e.g., heel pad inserted or insole added), for improving the style, or for similar purposes, the total charge for the modification and the shoe is subject to tax.

(10) Eyeglasses and lenses.

(a) Prescription eyeglasses, incidental items, and items that become a part of prescription eyeglasses are exempt. Prescription eyeglasses include lenses, including contact lenses, prescribed for the correction of a patient's refractive effort, for the improvement of a patient's vision, or for protective purposes. Incidental items include frames, component parts, carrying cases, contact lens cases, and other similar items.

(b) The sale of eyeglass lens cleaning solutions, contact lens cleaning solutions, and contact lens disinfectants are subject to tax.

(c) The sale of standard or stock eyeglasses, incidental items, or items that become a part of standard or stock eyeglasses, without a prescription, is subject to tax. Some examples are: frames and component parts, carrying cases, safety glasses, sunglasses, field glasses, opera glasses, and magnifying glasses.

(d) When the purchaser of one-time items that transfer essential optical characteristics to contact lenses has paid at least \$100,000 in tax (sales tax, plus discretionary sales surtax) in any calendar year on such purchases, the purchaser is exempt from tax on purchases of such items for the remainder of that calendar year. Purchasers who hold a valid Sales and Use Tax Direct Pay Permit issued by the Department may make purchases of these items exempt from tax when:

1. The purchaser extends a copy of a valid Sales and Use Tax Direct Pay Permit, as provided in Rule 12A-1.0911, F.A.C., to the selling dealer at the time of purchase; and,

2. The purchaser pays to the Department each calendar year \$100,000 in tax due on purchases of one-time items that transfer essential optical characteristics to contact lenses during the calendar year.

(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.

(12) Suggested exemption certificate; recordkeeping requirements.

(a) The following is a suggested exemption certificate to be issued to purchase qualified medical products, supplies, or devices exempt from tax at the time of purchase:

EXEMPTION CERTIFICATE

MEDICAL PRODUCTS, SUPPLIES, DEVICES, OR MATERIALS

I, the undersigned individual, as a practitioner licensed in the State of Florida, or an authorized representative of a licensed practitioner, certify that the medical products, supplies, devices, or other materials purchased on or after _____ (date) from _____ (Selling Dealer's Business Name): _____

(Check the use that qualifies the product, supply, device, or material for exemption)

Meet the definition of a medical product, supply, or device and will be dispensed by a licensed practitioner.

Will be used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient and will be temporarily or permanently incorporated into a patient(s) by a licensed practitioner.

I understand that if I use the medical product, supply, device, or other materials for any nonexempt purpose, I must pay tax on the purchase price of the 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 the penalties of perjury, I declare that I have read the foregoing Certificate and that the facts stated herein are true.

Name of Licensed Practitioner: _____

Florida License Number: _____ Address: _____

Name of Authorized Representative: _____

(Signature of Licensed Practitioner or Authorized Representative)

Title

Date

(b) 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 licensed practitioner or authorized representative. 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.

(c) Dealers must maintain copies of exemption certificates, Annual Resale Certificates, prescriptions, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(d) Electronic storage by the selling dealer of the required certificates, prescriptions, and other documentation will be sufficient compliance with the provisions of this subsection.

Rulemaking Authority 212.08(2)(a), 212.18(2), 213.06(1) FS. Law Implemented 212.08(2), (5)(u), (7)(sss), 212.085, 212.12(6)(a), 213.37, 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, 6-14-22, 1-1-24.

12A-1.0092 Detective, Burglar Protection, and Other Protection Services.

(1)(a) Persons who provide any of the services enumerated in NAICS National Numbers 561611, 561612, 561613 and 561621 of the North American Industry Classification System, published 2007, except as provided in paragraph (b), are dealers in a taxable service and are required to charge sales tax on the total taxable sales price of the service.

(b) The sale of private investigation services by a small private investigative agency to a client is exempt. The exemption does not apply during the first calendar year a small private investigative agency makes sales of private investigative services.

1. "Private investigation services" has the same meaning as "private investigation," as defined in s. 493.6101(17), F.S.

2. "Small private investigative agency" means a private investigator licensed with the Department of Agriculture and Consumer Services under s. 493.6201, F.S., which:

a. Employs three or fewer full-time or part-time employees, including those performing services pursuant to an employee leasing arrangement as defined in s. 468.520(4), F.S., in total; and

b. During the previous calendar year, performed private investigation services otherwise taxable in which the charges for the services performed were less than \$150,000 for all its businesses related through common ownership.

(2)(a) Detective, burglar protection, and other protection services are those services which are rendered to minimize or prevent loss or damage to life, limb, or property and are of a kind typically performed by security or alarm system companies, or are those investigative services which are rendered to obtain evidence or other information for legal, business, employment, or personal purposes of a kind typically performed by detective or investigative agencies. Illustrative examples of taxable services are:

1. Armored car service;

2. Bodyguard (personal protection) services;

3. Burglar or fire alarm or other security system devices monitoring and maintenance;

a. The installation of alarm or security systems that remain tangible personal property is governed by the provisions of Rule 12A-1.016, F.A.C.

b. The installation of alarm or security systems that become a part of real property is governed by the provisions of Rule 12A-1.051, F.A.C.

c. The monitoring or maintenance of alarm or security systems is a taxable service whether such systems are considered to be tangible personal property or a part of real property. The term maintenance includes any inspection of an alarm or security system to confirm its proper working order. The term maintenance does not include the expansion or upgrade of an existing system, but it does include the replacement of defective components.

4. Detective agency services;

5. Fingerprint service;

6. Guard dogs, detection dogs, and other dogs for protection or investigative services (not including training), with or without a handler;

7. Guard, patrol, and parking or other facility security services;

8. Investigation services (except credit);

9. Lie detector or polygraph services;

10. Missing person tracing services;

11. Passenger screening services; and,

12. Skip tracing services.

(b) The services in paragraph (a) above are taxable for all persons, businesses, residences, or nonresidential properties.

(c) The following services, when performed by detectives, private investigators, or others are not subject to tax when freestanding, or when separately stated on an invoice given to a purchaser which includes taxable services:

1. Credit reporting services.

2. Any report of public information or compiled social, business, or medical information, where the information has not been independently verified or confirmed by the investigator, by such methods as surveillance, interviews, or physical contact.

3. Insurance services as classified under NAICS National Number 524298, such as insurance investigation services, insurance loss prevention services, or insurance reporting services. The name of the insurance carrier must be included in the billing for the investigative services.

4. Process serving services.

5. Courthouse records retrieval.

6. Repossession services.

(d) Security Services Provided to Housing Facilities.

1. Security services, such as vehicle or foot patrols; gate, lobby, or entrance guard service; or personnel which may be dispatched from any other site upon request, are taxable. The following businesses or persons who charge for these services must also charge, collect, and remit tax on those services.

a. Developers, owners, or lessors of residential developments who charge property owners or residents of such developments.

b. Homeowner's, condominium, cooperative, or community associations who charge their members.

c. Operators of apartments, roominghouses, hotels, motels, and mobile home parks who charge the residents or guests of such facilities.

2. A charge for the transactions enumerated in subparagraph 1. is considered to be made when:

a. A charge for security services is expressly noted on an invoice given to the purchaser; or

b. A charge is made for a package of services which, by agreement, includes security services. See paragraph 12A-1.0161(6)(a), F.A.C.

(e) The services in this rule are not taxable when provided by employees to their employers. See subsection 12A-1.0161(3), F.A.C.

(f) The services which are subject to tax in this rule are taxable when performed within or outside this state and used within this state by the purchaser or when the purchaser's primary benefit of the services is within this state. The services which are subject to tax in this rule are exempt when performed within this state but used outside this state by the purchaser or when the purchaser's primary benefit of the services is outside this state. The seller must maintain a log pursuant to paragraph 12A-1.0161(2)(c), F.A.C., documenting any transaction where services are performed in this state but used by a purchaser outside this state.

1. Example: Company E is located in Georgia and Florida. Company E suspects that its Georgia warehouse manager is stealing merchandise from the company and hires a Florida detective agency to investigate. Irrespective of where the investigative services are performed, since the services do not directly relate to real or tangible personal property located in Florida, nor do they directly relate to the Florida activities of Company E, it is presumed that the primary benefit or use of the detective services is enjoyed in Georgia. Therefore, the investigative services are not taxable.

2. Example: Company N is a manufacturer located only in Florida. Company N has suffered losses of tangible personal property that it consigned to a location in Illinois. Company N hires a local Illinois detective agency to investigate. All field work is performed in Illinois and a report is directly submitted to Company N in Florida. Although the services were performed outside of Florida, the detective services directly relate to tangible personal property that is still owned by a Florida company and directly related to the Florida company's activities. Therefore, the primary benefit or use of the services is in Florida, and the services are subject to tax. If the Illinois detective agency is not registered with the State of Florida for sales and use tax purposes, it cannot charge Florida sales tax to Company N, thereby requiring Company N to report and remit use tax on the cost of the investigative services to the State of Florida.

3. Example: A California art gallery has loaned an important work of art to a Florida art gallery. Security services must be hired to protect this work of art. If the California art gallery is invoiced for the security services, it will be presumed that the primary benefit of the services is to protect the California art gallery's tangible personal property. Since the services are used by a purchaser who is located outside this state, the security services will not be taxable. If the Florida art gallery is invoiced for the security services, it will be presumed that the primary benefit of the services is to protect the activities of the Florida art gallery, and the charges will be subject to tax.

(3)(a) If a transaction involves both the sale or use of a service which is taxable and the sale or use of a service which is not taxable, the charges for the taxable portion of the transaction must be separately stated from the charges for the nontaxable portion or the entire transaction will be presumed taxable.

1. Example: An armored car company makes daily pick-ups of currency and coins from a discount store for transport to a local bank. For an increased single monthly fee, the armored car company will count and wrap the currency and coins prior to transporting the cash to the bank. Since the currency and coin wrapping service is included in the taxable armored car service, the entire charge made by the armored car company to the discount store is subject to tax.

2. Example: Company A is a defense industry contractor. Company A hires an investigative firm to perform a full background check, including psychological and drug testing, on employment applicants. The investigative firm engages the services of a psychologist and a medical lab to perform the necessary testing procedures. The professional services of the psychologist and the

medical lab do not fall within the taxable services enumerated in subsection (1). However, the charge that the investigative firm makes to Company A for the psychological and drug testing must be separately stated or the entire transaction will be subject to tax.

3. Example: A security company has a contract to provide monthly security services for Company C's physical facility. Company C has requested the security company to provide personal security classes to Company C's employees. The personal security classes are separate from and not included in the security services for the physical facility. The personal security instruction classes will not be subject to tax, provided the security company separately states or itemizes the instruction charges on the monthly service billing to Company C.

(b) Investigative services provided to private attorneys are not exempt, unless such services are those which are enumerated in paragraph (2)(c) above.

(c) Investigative or security services provided directly to a governmental entity that is exempt from sales and use taxes under Section 212.08(6), F.S., are exempt if payment is made directly by the governmental entity. Such services are not exempt when provided to a contractor for a governmental entity.

(d) There can be no deduction from the taxable sales price of a service for expenses incurred in activities necessary for the performance of the service or for any taxes paid on those expenses.

1. Example: A security company provides security to a client for \$125,000 a year. That contract incurs \$85,500 in direct wages for several security guards. The security service pays \$6,541 in Social Security (FICA) taxes on the wages paid to the security guards. Neither the \$85,500 in wages nor the \$6,541 in FICA tax can be deducted from the \$125,000 charge for this taxable service when computing the sales tax.

2. Example: A private investigator, in performing a taxable service for a client, stays in a hotel room, for which he pays \$100 plus \$6 tax. He bills the client \$500 for his service, plus reimbursement of the \$106 expenses incurred in performing the service. The tax on the investigator's service will be six percent of the \$606 total charged, or \$36.36.

(e)1. A deduction is not allowed from the taxable sales price of a service for the service provider's overhead or administrative costs incurred to support the services provided.

2. Example: A security company provides security to a client under a contract that provides for thirty percent of the total charge to be for services incurred in support of providing security, but not in the actual provision of security, such as administrative, personnel, training, and other support activities. In computing the tax on the service there can be no deduction of such expenses from the total charge for the service.

(f) In the event of an audit by the Department of Revenue, pursuant to Section 212.13, F.S., a service provider will not be required to divulge any information that it is prohibited from divulging under Section 493.6119, F.S.

1. Example: A detective agency performs a taxable service for a client and it discovers certain information. If the agency is audited, the agency is required to provide access to its records indicating that it provided the service and the amount charged for the service, but the agency cannot be required to provide access to records divulging any information it is prohibited from divulging under Section 493.6119, F.S.

2. Example: During an audit of a detective agency, a Department of Revenue auditor asks for records on transactions for the audit period. A number of pages of the agency's records contain both information pertinent to the taxability of services and information that cannot be divulged without violating Section 493.6119, F.S. The agency is required to provide the auditor with photocopies of those pages on which the confidential information has been blocked out.

(4) A shopping mall providing security services for its tenants is required to charge and collect tax on the security service.

(5)(a)1. Any law enforcement officer, as defined in Section 943.10, F.S., who is performing approved duties as determined by his law enforcement agency, in his capacity as a law enforcement officer subject to the direct and immediate command of his law enforcement officer subject to the direct and immediate command of his law enforcement agency, and in the uniform of his law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through his agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

2. Example: A deputy sheriff is a full-time employee of county "A". During his off-duty hours, he is employed on a contract

basis as a security guard by a department store in county "B". The deputy sheriff is not an employee of the department store. Since the sheriff's department in county "A" does not have law enforcement jurisdiction in county "B", the charge the deputy makes to the department store for providing security guard service is subject to tax.

(b)1. The consideration paid solely for directing the control of vehicular traffic not associated with protection services provided to particular persons or properties is not taxable. However, the consideration paid for protection services provided to particular persons or properties, which may include some traffic control, is fully taxable.

2. Example: A major celebrity will be appearing at the grand opening of a department store. The department store engages a security company to provide security officers for the protection of the celebrity. Since the celebrity will be appearing outside the main entrance to the department store, some of the security officers will be used to direct the extra anticipated vehicle traffic in the parking lot in front of the department store's main entrance. The total charge made by the security company to the department store for the protection services is taxable.

3. Example: A shopping mall engages a security company to provide security officers solely to assist in directing an anticipated heavy amount of vehicle traffic during the holiday shopping season, while the mall's own security force provides protection to the stores against shoplifters. The charge that the security company makes to the shopping mall is not subject to tax.

(6) Detective, burglar protection, and other protection service providers are considered the ultimate users or consumers of the tangible personal property sold to them and used in connection with their service and are required to pay the tax imposed upon such sales of tangible personal property to their dealers.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b), (i), 212.06(1)(a), (2)(k), 212.08(7)(uuu), 212.085 FS. History—New 5-13-93, Amended 10-17-94, 3-20-96, 7-29-98, 1-12-11, 1-1-24.

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.
- Materials used to construct or repair permanent or temporary fencing used to contain, confine, or process cattle, including gates and energized fencing systems, used in agricultural operations on lands classified as agricultural lands under s. 193.461, F.S. Materials used to construct or repair permanent or temporary cattle fencing means those materials that are incorporated into and become a component part of the constructed or repaired fencing, such as: fencing; lumber or steel for posts or rails; fence wire, panels, and gates; energizers and chargers; electric fence wire braid, tape, and rope; electric fence end strainers, earth stakes, and signs; ground rods; electric fence connector clamps, connection bolts, wire bolts, wire joiners; insulators; nails, screws, staples, 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, 1-1-24.

12A-1.097 Public Use Forms.

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

(a) Copies of these forms, except those denoted by an asterisk (*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's website at floridarevenue.com/forms; or, 2) calling the Department at (850)488-6800, Monday through Friday, (excluding holidays); or, 3) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(b) Forms (certifications) specifically denoted by an asterisk (*) are issued by the Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Florida Department of Revenue
Taxpayer Services
5050 West Tennessee Street
Tallahassee, Florida 32399-0112.

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application (http://www.flrules.org/Gateway/reference.asp?No=Ref-14227)	01/22
(b) DR-1N	Registering Your Business (http://www.flrules.org/Gateway/reference.asp?No=Ref-14821)	01/23
(c) DR-1CON	Application for Consolidated Sales and Use Tax Filing Number (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06358)	01/16
(d) DR-1A	Application for Registered Businesses to Add a New Florida Location (http://www.flrules.org/Gateway/reference.asp?No=Ref-14228)	01/22
(e) DR-1C	Application for Collective Registered of Living or Sleeping Accommodations (http://www.flrules.org/Gateway/reference.asp?No=Ref-11783)	03/20
(f) DR-1CCN	Application for Sales and Use Tax County Control Reporting Number (http://www.flrules.org/Gateway/reference.asp?No=Ref-11784)	03/20
(g) DR-1FA	Application for a Florida Certificate of Forwarding Agent Address (http://www.flrules.org/Gateway/reference.asp?No=Ref-14398)	06/22
(3) DR-5	Application for Consumer's Certificate of Exemption with Instructions (R. 01/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07745)	01/17
(4)(a) DR-7	Consolidated Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-11378)	01/20
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-16257)	01/24
(c) DR-15CON	Consolidated Summary – Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-11378)	01/20
(5)(a) DR-15	Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-11380)	01/20
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref-16259)	01/24
(c) DR-15AIR	Sales and Use Tax Return for Aircraft (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06361)	01/16
(d) DR-15EZ	Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref-11382)	01/20
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref-16258)	01/24

(f) DR-15MO	Out-of-State Purchase Return (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06363)	01/16
(6)(a) DR-16A	Application for Self-Accrual Authority/Direct Pay Permit (R. 01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-04858)	01/15
(b) DR-16P*	Sales and Use Tax Direct Pay Permit (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06364)	01/16
(c) DR-16R	Renewal Notice and Application for Sales and Use Tax Direct Pay Permit (R. 01/15) (http://www.flrules.org/Gateway/reference.asp?No=Ref-04859)	01/15
(7) DR-17A	Certificate of Cash Deposit or Cash Bond (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06365)	01/16
(8)(a) DR-18	Application for Amusement Machine Certificate (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06366)	01/16
(8)(b) DR-18-N	Application for Amusement Machine Certificate General Information and Instructions (http://www.flrules.org/Gateway/reference.asp?No=Ref-06366)	01/16
(8)(c) DR-18R	Amusement Machine Certificate Renewal Application (N. 03/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07853)	03/17
(8)(d) DR-18RS	Amusement Machine Certificate Renewal Application Second Notice (N. 03/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07854)	03/17
(9) DR-29	Application for Release or Refund of Security (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06367)	01/16
(10) DR-46NT	Nontaxable Medical Items and General Grocery List (http://www.flrules.org/Gateway/reference.asp?No=Ref-16287)	07/23
(11) DR-72-2	Declaration of Taxable Status – Trailer Camps, Mobile Home Parks, and Recreational Vehicle Parks (R. 01/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07749)	01/17
(12) DR-95B	Schedule of Tax Credits Claimed on Repossessed Tangible Personal Property (http://www.flrules.org/Gateway/reference.asp?No=Ref-10175)	01/19
(13) DR-99A	Affidavit for Occasional or Isolated Sale of a Motor Vehicle (R. 01/17) (http://www.flrules.org/Gateway/reference.asp?No=Ref-07750)	01/17
(14) DR-123	Partial Exemption for Motor Vehicle Sold to Resident of Another State: Affidavit (http://www.flrules.org/Gateway/reference.asp?No=Ref-12313)	01/21
(15) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (R. 06/12)	06/12
(16) DR-1214	Application for Temporary Tax Exemption Permit (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06371)	01/16
(17)(a) DR-117000	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application for a Credit Allocation (http://www.flrules.org/Gateway/reference.asp?No=Ref-11202)	10/19
(b) DR-117100	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application to Change a Credit Allocation (http://www.flrules.org/Gateway/reference.asp?No=Ref-11203)	10/19
(c) DR-117200	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application for Rescindment of a Credit Allocation (http://www.flrules.org/Gateway/reference.asp?No=Ref-11204)	10/19
(d) DR-117300	Florida Tax Credit Scholarship Program for Commercial Rental Property – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization (http://www.flrules.org/Gateway/reference.asp?No=Ref-11205)	10/19
(18) DR-300400	Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes	01/16

	(R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06372)	
(19) DR-600013	Request for Verification that Customers are Authorized to Purchase for Resale (R. 01/16) (http://www.flrules.org/Gateway/reference.asp?No=Ref-06373)	01/16
(20) DR-1214DCP	Application for Data Center Property Temporary Tax Exemption Certificate (http://www.flrules.org/Gateway/reference.asp?No=Ref-09254)	04/18
(21) DR-5DCP	Application for Data Center Property Certificate of Exemption (http://www.flrules.org/Gateway/reference.asp?No=Ref-09255)	04/18
(22)(a) DR-HS1	Hope Scholarship Program – Contribution Election (http://www.flrules.org/Gateway/reference.asp?No=Ref-11206)	10/19
(b) DR-HS2	Hope Scholarship Program – Dealer Contribution Collection Report (http://www.flrules.org/Gateway/reference.asp?No=Ref-11207)	10/19
(c) DR-HS3	Hope Scholarship Program – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization (http://www.flrules.org/Gateway/reference.asp?No=Ref-11208)	10/19

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.0596(3), 212.06(5)(b)13., 212.07(1)(b), 212.08(7), 212.099(10), 212.11(5)(b), 212.12(1)(a)2., 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 1002.40(16) FS. Law Implemented 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.22(3)-(6), 202.28(1), 203.01, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.0596, 212.05965, 212.06, 212.0606, 212.07(1), (8), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.099, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.14(2), (4), (5), 212.18(2), (3), 212.183, 212.1832, 213.235(1), (2), 213.29, 213.37, 213.755, 215.26(6), 219.07, 288.1258, 290.00677, 365.172(9), 376.70(2), 376.75(2), 403.718, 403.7185(3), 443.131, 443.1315, 443.1316, 443.171(2), 1002.40(13) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, 1-17-13, 5-9-13, 1-20-14, 1-19-15, 1-11-16, 4-5-16, 1-10-17, 2-9-17, 1-17-18, 4-16-18, 1-8-19, 10-28-19, 12-12-19, 3-25-20, 12-31-20, 6-14-22, 1-1-23, 1-1-24.