

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

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

(1) through (3) No change

(4)(a) through (d) No change

(e) Utility charges paid by a tenant to the lessor for the privilege or right to use or occupy real property are taxable, unless the lessor has paid the sales tax to the utility company on such utilities consumed by the tenant, and the utilities billed by the lessor to the tenant are separately stated on the lessor's invoice to the tenant at the same or lower price as that billed by the utility company to the lessor.

1. Example: Landlord owns a building with 5 offices and common areas. All offices are the same size. Landlord uses one office and leases the other four. The lease agreement provides that the utility charges are "additional rent" and failure to pay such utility charges when required will cause the lease to terminate. All offices use approximately the same amount of utilities. Utility services are sold by City Utilities to Landlord. Landlord's total utility bill is \$1,900. Of that total, \$150 was non-taxable water, garbage, and sewage charges.

Landlord charges each tenant \$2,000 rent and 1/5 of Landlord's total utility bill with no mark-up. Tenant owes tax on the rent and on his portion of the utility charges not taxed to Landlord. Therefore, the invoice to the tenant for the month should read:

Rent	\$2,000.00
Tenant's one-fifth share of charges not taxed to Landlord (\$150 * 20%)	30.00
Total subject to sales tax	\$2,030.00
Florida ( <u>5.5%</u> <del>5.7%</del> ) sales tax	<u>111.65</u> <del>115.71</del>
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord (\$1,900 - \$150 * 20%)	<u>350.00</u>
Total Amount Due	<u>\$2,491.65</u>
	<u>\$2,495.71</u>

2. Example: Same facts as above, except Landlord marks up Tenants' share of the total of City Utilities' service bill by 10 percent. Thus each tenant's one-fifth share of utilities would be \$418.00, instead of \$380.00. Again, if Landlord separately states the

utility charges on the tenant's invoice, Landlord should compute the tax as follows:

Rent	\$2,000.00
Tenant's one-fifth share of utilities not taxed (total utilities \$418.00, less utilities on which Landlord paid tax, \$350.00)	68.00
Total subject to tax	\$2,068.00
Florida ( <u>5.5%</u> <u>5.7%</u> ) sales tax	<u>113.74</u> <u>117.88</u>
Reimbursement for one-fifth share of utilities on which tax was paid by Landlord	<u>350.00</u>
Total Amount Due	<u>\$2,531.74</u>
	<u>\$2,535.88</u>

(f) through (g) No change

(5) through (7) No change

(8) When a tenant (lessee) or other person occupying, using, or entitled to use any real property (licensee) sublets or assigns some portion of the leased or licensed property, he may take credit on a pro rata basis for the tax that he paid to his landlord or other such person on the space that he subleases or assigns. Proration shall be computed on square footage or some other basis acceptable to the Executive Director or the Executive Director's designee in the responsible program. For example, Tenant leases 200 square feet of floor space for \$400.00 and pays Landlord \$22.00 \$22.80 rental tax. Tenant subleases 100 square feet, or one half, of the space to Subtenant for \$300.00 and collects \$16.50 \$17.10 tax which he remits to the State, less a credit of \$11.00 \$11.40 for tax that he paid to his landlord on the space that he subleased to Subtenant. (One half of \$400.00 is \$200.00 and 5.7 percent of this amount is \$11.40.)

(9) through (23) No change

*Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(h), (i), (13), 212.03(6), 212.031 FS. History—New 10-7-68, Amended 2-8-69, 10-7-69, 6-16-72, 9-26-77, 10-18-78, 12-31-81, 7-20-82, Formerly 12A-1.70, Amended 1-2-89, 3-27-95, 7-17-95, 1-17-18, 1-8-19, XX-XX-XX.*

### **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 section 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 section 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) through (g) No change

(3) through (9) No change

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

(a) through (e) No change

(f) The following is a suggested format of an exemption certificate to be issued by any person purchasing or leasing power farm equipment qualifying for exemption under section 212.08(3), F.S., or items that qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser or lessee may be eliminated from the certificate. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt power farm equipment or items for agricultural use or for agricultural purposes. For an aquaculture health product, the purchaser may use the suggested purchaser's exemption certificate below or provide a copy of the aquaculture producer's Aquaculture Certification from the Florida Department of Agriculture and Consumer Services to the selling dealer.

**ITEMS FOR AGRICULTURAL USE OR FOR  
AGRICULTURAL PURPOSES AND POWER FARM EQUIPMENT**

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

Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.

( ) Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.

( ) Generators purchased, rented, or leased for exclusive use on a poultry farm. See the exemption category provided for power farm equipment, as defined in section 212.02(30), F.S., which includes generators, motors, and similar types of equipment.

( ) Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in section 212.08(5)(a), F.S.

( ) Animal health product that are administered to, applied to, or consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, as provided in section 212.08(5)(a), F.S.

( ) Aquaculture health product to prevent or treat fungi, bacteria, and parasitic diseases, as provided in section 212.08(5)(a), F.S. I certify that I am engaged in the production of aquaculture products and certified under section 597.004, F.S.

( ) Nets, and parts used in the repair of nets, purchased by commercial fisheries.

( ) Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

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

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

( ) Stakes used to support plants during agricultural production.

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

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

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

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

( ) Butane gas, propane gas, natural gas, or other form of liquefied petroleum gas used in a tractor, vehicle, or other farm

equipment used directly or indirectly for the production, packing, or processing of aquacultural products, whether on or off the farm.

( ) Power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in sections section 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 section 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 section 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 section 570.02(1) and 581.217, F.S.

( ) Other (include description and statutory citation):

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

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

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

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

Purchaser's Name \_\_\_\_\_

Purchaser's Address \_\_\_\_\_

Name and Title of Purchaser's Authorized Representative \_\_\_\_\_

Sales and Use Tax Certificate No. (if applicable) \_\_\_\_\_

By \_\_\_\_\_

(Signature of Purchaser or Authorized Representative)

Title \_\_\_\_\_

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

Date \_\_\_\_\_

(g) No change

(11) through (12) No change

*Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.08(3), (5)(a), (e), (7)(jj), 212.085, 581.217, 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, XX-XX-XX.*

### **12A-1.097 Public Use Forms.**

(1) No Change

Form Number	Title	Effective Date
(2) through (3)	No change	
(4)(a) DR-7	Consolidated Sales and Use Tax Return  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40168">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40168</a> )	<u>XX/XX 01/19</u>
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40169">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40169</a> )	<u>XX/XX 01/19</u>
(c) DR-15CON	Consolidated Summary – Sales and Use Tax Return  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40168">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40168</a> )	<u>XX/XX 01/19</u>
(5)(a) DR-15	Sales and Use Tax Return  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40170">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40170</a> )	<u>XX/XX 01/19</u>
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40171">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40171</a> )	<u>XX/XX 01/19</u>
(c)	No change	
(d) DR-15EZ	Sales and Use Tax Return  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40172">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40172</a> )	<u>XX/XX 01/19</u>
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns  ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__40173">http://www.flrules.org/Gateway/reference.asp?No=Ref-__40173</a> )	<u>XX/XX 01/19</u>

(f) through (k)	No change	
(6) through (10)	No change	
(11) DR-46NT	Nontaxable Medical Items and General Grocery List ( <del>R. 01/18</del> ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__08959">http://www.flrules.org/Gateway/reference.asp?No=Ref-__08959</a> )	<u>XX/XX 01/18</u>
(12) through (22)	No change	

*Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(2), (4), (5), 212.17, 212.18(2), (3), 212.183, 213.235, 213.29, 213.37, 213.755, 215.26(6), 219.07, 288.1258, 290.00677, 365.172(9), 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, 1-17-13, 5-9-13, 1-20-14, 1-19-15, 1-11-16, 4-5-16, 1-10-17, 2-9-17, 1-17-18, 4-16-18, 1-8-19, XX-XX-XX.*