

Notice of Proposed Rule

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.007, F.A.C., is to: correct the title provided for Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida, incorporated by reference in Rule 12A-1.097, F.A.C., and to clarify information regarding sales tax and surtax due to be refunded to the consumer on a repurchased motor vehicle under Chapter 681, F.S., Motor Vehicle Warranty Enforcement Act.

SUMMARY: The proposed amendments correct the title of a form and clarify that all taxes paid by and refunded to a customer who has a vehicle repurchased under Chapter 681, F.S., are refundable to the manufacturer making the refund.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(2), (4), (10), (14), (15), (16), (19), (20), 212.03, 212.05(1), 212.06(1), (2), (4), (5), (7), (8), (10), (12), 212.0601, 212.07(2), (7), 212.08(5)(i), (7)(t), (aa), (ee), (10), (11), 212.12(2), (12), 213.255(1), (2), (3), 215.26(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: July 11, 2018, 12:00 p.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Becky Avrett at (850)717-6799. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tammy Miller, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6309.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

(1) through (7) No change.

(8) Motor Vehicles.

(a) The sale in this state by a motor vehicle dealer of a new or used motor vehicle to a resident of another state of the United States is taxable in an amount equal to the sales tax which would be imposed on such sale in the purchaser's state of residence. A list of the sales tax rates applicable in other states and the District of Columbia is available, without cost, by one or more of the following methods: 1) writing Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; or, 2) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 3) calling the Forms Request Line during regular office hours at (850)488-6800; or, 4) downloading selected forms from the Department's website at www.floridarevenue.com/forms. However, such tax shall not exceed the tax that would otherwise be imposed by Chapter 212, F.S. At the time of the sale the purchaser shall execute a notarized statement of his or her intent to license the vehicle in his or her state of residence within 10 days from the date of purchase and:

1. through 3. No change.

4. The Department prescribes Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida, incorporated by reference in Rule 12A-1.097, F.A.C., to be completed by the purchaser and furnished to the selling dealer or appropriate sales tax collection agency.

(b) through (m) No change.

(9) through (22) No change.

(23) Motor Vehicle Warranty Repurchases or Replacements (Lemon Law).

(a) The following provisions shall apply when a manufacturer pursuant to the provisions of Section 681.104, F.S., replaces or repurchases a motor vehicle:

1. No change.

2.a. through c. No change.

~~d. The amount of refund to the manufacturer shall be in an amount which results when the state sales tax percentage plus any county discretionary surtax is multiplied by the sum which remains when the reasonable offset for use is subtracted from the sales price of the vehicle.~~

~~(I) Example: The total sales price of the vehicle less trade-in allowance is \$18,000. The reasonable offset for use of 2,000 miles out of projected 120,000 miles ($2,000 \times 18,000$ divided by 120,000) equals \$300. Sales tax of 6 percent times \$17,700 (\$18,000 minus \$300) represents the amount of sales tax refunded to the manufacturer of \$1,062.~~

~~(II) Example: The sales price of the vehicle is \$10,000. The reasonable offset for use of 48 miles out of projected 120,000 miles equals \$4 ($48 \times 10,000$ divided by 120,000). Sales tax of 3 percent (sales tax rate of purchaser's resident state) times 9,996 (\$10,000 minus \$4) equals \$299.88, which sum represents the amount of sales tax refunded to the manufacturer.~~

~~(III) Example: The sales price of the vehicle is \$8,000. The reasonable offset for use of 600 miles out of projected 120,000 miles equals \$40 ($600 \times 8,000$ divided by 120,000). Sales tax of 7 percent (6 percent plus 1 percent county discretionary surtax) times \$5,000 (statutory limit on which county discretionary surtax is imposed) equals \$350. The remainder of the sales price of \$2,960 (\$8,000 minus \$5,000 minus \$40) times 6 percent equals \$177.60. The total of \$527.60 (\$350 plus \$177.60) represents the amount of sales tax refunded to the manufacturer.~~

(b) No change.

(24) through (28) No change.

Rulemaking Authority 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (4), (10), (14), (15), (16), (19), (20), 212.03, 212.05(1), 212.06(1), (2), (4), (5), (7), (8), (10), (12), 212.0601, 212.07(2), (7), 212.08(5)(i), (7)(t), (aa), (ee), (10), (11), 212.12(2), (12), 213.255(4)-(2), (3), 213.35, 215.26(2), 681.102(13)-(14), (20)-(21), 681.104 FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, ~~4-17-03~~ 9-28-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tammy Miller

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2018

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 2, 2017