

## Danielle Boudreaux

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**From:** david.rosen@akerman.com  
**Sent:** Wednesday, September 22, 2021 10:40 AM  
**To:** RuleComments  
**Cc:** Danielle Boudreaux  
**Subject:** Comments to Proposed Rental Car Surcharge Regulatory Amendments

Good morning,

I would like to follow up on my oral comments at this morning's Florida Department of Revenue rule development workshop with respect to proposed regulatory amendments to various rules in Chapter 12A-16 of the Florida Administrative Code with written comments that summarize the comment.

Fla. Stat. § 212.0606(2), *as amended by* 2021 Fla. Laws ch. 2021-175, § 2, imposes a rental car surcharge remittance obligation on any "motor vehicle rental company". A "motor vehicle rental company" is defined to include any "entity that is in the business of providing, for financial consideration, motor vehicles to the public under a rental agreement. Fla. Stat. § 212.0606(1)(b), *as amended by* 2021 Fla. Laws ch. 2021-175, § 2. The surcharge imposition upon and definition of a "motor vehicle rental company" is incorporated by reference into the Department proposed regulations at Fla. Admin. Code rr. 12A-16.002(2) and 12A-16.002(1)(d), respectively.

The Department should clarify that a motor vehicle leasing company that takes assignment of long-term motor vehicle leases from motor vehicle dealers to whom the first lease payment was made are not required to collect and remit the surcharge. The facts and circumstances governing such a lease assignment are set forth in Technical Assistance Advisements 96A-032 and 06A-019. In each of these rulings, which were made under Fla. Stat. § 212.0606 and Fla. Admin. Code r. 12A-16.002 as presently codified, the Department determined that when an automobile dealer enters into a leasing agreement with a customer and collects the first month's rent, then subsequently assigns the lease to a leasing company, the dealer (and not the lease company) is responsible for remitting the rental car surcharge to the Department since the dealer, rather than the leasing company, is the recipient of the first month's lease payment. A statement to this effect should be incorporated into the final regulation to ensure that motor vehicle dealers, as the originators of lease agreements and lessor thereunder in the first instance, continue to collect and remit surcharges as they are so required under existing law.

I greatly appreciate the opportunity to discuss this matter with the Department and the hard work that the Department puts into all proposed regulatory amendments. Thank you for your consideration of this comment. If you have any questions, please let me know.

David Rosen

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