

Notice of Emergency Rule

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER19-01 Hope Scholarship Program

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 24 of Chapter 2019-23, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement changes to Form DR-HS1, Hope Scholarship Program – Contribution Election Form, as required by Section 9 of Chapter 2019-23, Laws of Florida. Section 24 provides that conditions necessary for an emergency rule have been met. Section 49 of Chapter 2018-6, L.O.F., provides specific emergency rulemaking authority to the Department for the implementation of contribution forms for the Hope Scholarship Program, along with the renewal of the emergency rule during the pendency of procedures to adopt permanent rules. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the new program.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 24 of Chapter 2019-23, Laws of Florida. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the provisions of Section 9 of Chapter 2019-23, Laws of Florida.

SUMMARY: Emergency Rule 12AER19-01 replaces Emergency Rule 12AER18-07, and incorporates revisions to Form DR-HS1. The rule provides an updated mailing address for the participating nonprofit scholarship-funding organization on Form DR-HS2, Hope Scholarship Program – Dealer Contribution Collection Report.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone: (850)717-7082.

THE FULL TEXT OF THE EMERGENCY RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
SALES AND USE TAX
EMERGENCY RULE 12AER19-01

12AER19-01 Hope Scholarship Program.

(1) Definitions. For purpose of this rule, the following terms mean:

(a) “Contribution” means a monetary contribution from a person purchasing a motor vehicle from a dealer, or registering a motor vehicle purchased from someone other than a dealer, to an eligible nonprofit scholarship-funding organization as provided under the Hope Scholarship Program.

(b) “Department” means the Florida Department of Revenue.

(c) “Eligible nonprofit scholarship-funding organization” or “organization” has the same meaning as provided in s. 1002.40(2)(e), F.S.

(d) “Motor vehicle” means any automobile, truck with a net vehicle weight of 5,000 pounds or less and any other vehicle operated on the roads of Florida, used to transport persons or property, and propelled by power other than muscular power. Heavy trucks, truck tractors, trailers, motorcycles, and mopeds are not “motor vehicles” for purposes of the Program.

(e) “Program” means the Hope Scholarship Program under s. 1002.40, F.S.

(2) Contributing to the Program.

(a) Any person, including persons who are not Florida residents, purchasing a motor vehicle from a dealer or registering a motor vehicle purchased from someone other than a dealer on or after October 1, 2018, may designate the lesser of \$105 or the amount of state sales tax due to the Program. An eligible contribution must be accompanied by Hope Scholarship Program – Contribution Election (Form DR-HS1).

(b) Beginning October 1, 2018 dealers, designated agents, and private tag agents are required to provide a purchaser or registrant with the opportunity to make a contribution and with a copy of Form DR-HS1 at the time of purchase or

registration of the motor vehicle. Vehicle purchasers and registrants are not required to complete Form DR-HS1, and dealers, designated agents, and private tag agents are not required to retain Form DR-HS1, if the purchaser or registrant chooses not to make a contribution.

(c) Dealers, designated agents, and private tag agents may, but are not required to, separately state a contribution on a sales invoice or other evidence of the motor vehicle sale, purchase, or registration.

(d) A contribution may not be made for any of the following:

1. Any tax other than the state sales tax imposed by s. 212.05, F.S.
2. Any tax due on a warranty or other taxable item sold in conjunction with a motor vehicle.
3. Any tax due on the lease or rental of a motor vehicle.

(3) Reporting contributions.

(a) Dealers, designated agents, and private tag agents who receive contributions must remit those contributions to the applicable organization. Contributions must also be reported to both the organization and the Department using Hope Scholarship Program – Dealer Contribution Collection Report (Form DR-HS2) no later than the date a return filed under s. 212.11, F.S., is due for the period in which the contributions are received. The fastest and easiest way to complete the Hope Scholarship Program – Dealer Contribution Collection Report is online at www.floridarevenue.com/taxes/sfo. Dealers, designated agents, and private tag agents may also report by using a paper report made available on the Department’s website.

(b) Any dealer, designated agent, or private tag agent required to file Form DR-HS2 who fails to do so may be subject to penalty as prescribed by s. 1002.40(13)(g), F.S. A dealer, designated agent, or private tag agent may also be subject to penalty if it is later discovered that contributions were received but not reported, even if such contributions were paid over to an organization.

(c) Dealers, designated agents, and private tag agents who receive contributions must separately report them on their sales and use tax returns beginning October 1, 2018. The total amount of sales tax that would otherwise be due must be included in the amount of tax reported on the tax return. Contributions must be reported both in total deductions claimed and separately on the appropriate line of the return. Contributions may not be netted against the tax otherwise due on the return.

(4) Reporting of contributions by eligible nonprofit scholarship-funding organizations.

(a) Each organization is required to report to the Department the contributions received during each calendar month using Hope Scholarship Program – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization (Form DR-HS3). The report is due to the Department on or before the 20th day of the month following the month of collection. If the 20th falls on a Saturday, Sunday, or state or federal holiday, the report must be received on the first business day following the 20th.

(b) The fastest and easiest way to complete the Hope Scholarship Program – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization is online at www.floridarevenue.com/taxes/sfo. Dealers, designated agents, and private tag agents may also report by using a paper report made available on the Department’s website.

(5) The following forms are hereby incorporated by reference. These forms are available on the Department’s website at www.floridarevenue.com/forms under the sales and use tax section.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
<u>(a) DR-HS1</u>	<u>Hope Scholarship Program – Contribution Election</u>	<u>05/19</u>
<u>(b) DR-HS2</u>	<u>Hope Scholarship Program – Dealer Contribution Collection Report</u>	<u>05/19</u>
<u>(c) DR-HS3</u>	<u>Hope Scholarship Program – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization</u>	<u>08/18</u>

Rulemaking Authority s. 49, Ch. 2018-6, L.O.F., s. 24, Ch. 2019-23, L.O.F.; 213.06(2), 1002.40(16), FS; Law Implemented 212.05, 212.1832, 1002.40(1), (13), FS., s. 9, Ch. 2019-23; History– New 5-31-19, Replaces 12AER18-07.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 5/31/2019