

AGENDA
FLORIDA DEPARTMENT OF REVENUE

Meeting Material Available on the web at:
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MEMBERS

Governor Rick Scott
Attorney General Pam Bondi
Chief Financial Officer Jeff Atwater
Commissioner Adam H. Putnam

September 18, 2012

**Contacts: Andrea Moreland, Legislative and Cabinet
Services Director, (850-617-8324)
MaryAnn Murphy, Executive Asst. II
(850-717-7138)**

**9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida**

ITEM	SUBJECT	RECOMMENDATION
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1.	Respectfully request approval of the minutes of the March 20, 2012, and June 26, 2012, meetings.	
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	(ATTACHMENT 1)	RECOMMEND APPROVAL
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2.	Respectfully request adoption of, and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, the following rules to reflect law changes in the area of Property Tax Oversight:	
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Property Tax Oversight:

Rules 12D-1.009, 12D-1.010, 12D-2.001, 12D-5.004, 12D-5.014, 12D-7.0055, 12D-7.006, 12D-7.013, 12D-7.0142, 12D-7.0143, 12D-7.019, 12D-7.020, 12D-8.0061, 12D-8.00659, 12D-8.022, 12D-9.015, 12D-9.036, 12D-16.001, 12D-16.002, 12D-17.004, 12D-17.005, 12D-17.006, and 12D-18.012.

	(ATTACHMENT 2)	RECOMMEND APPROVAL
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3.	Respectfully request approval and authority to publish Notices of Proposed Rule in the Florida Administrative Weekly to update the following rules in the area of General Tax Administration to reflect 2012 law changes and update annual changes to forms:	
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General Tax Administration:

Sales and Use Tax

Rules 12A-1.005, 12A-1.0144 (New), 12A-1.055 (Repeal), 12A-1.056, 12A-1.087, 12A-1.096, and 12A-1.097

Secondhand Dealers or Secondary Metals Recyclers

Rules 12A-17.001 (Repeal), 12A-17.003, and 12A-17.005

Communications Services Tax

Rules 12A-19.010, 12A-19.041, 12A-19.070, and 12A-19.100

Corporate Income Tax

Rules 12C-1.0191, 12C-1.0193, 12C-1.0221, and 12C-1.051

Fuel Tax

Rules 12B-5.020, 12B-5.130, and 12B-5.150

Insurance Premium Tax, Fees, and Surcharges

Rules 12B-8.002 (Repeal) and 12B-8.003

Annual Tax on Government Leasehold Estates

Rules 12C-2.004, 12C-2.010, and 12C-2.0115

(ATTACHMENT 3)

RECOMMEND APPROVAL

ATTACHMENT 1

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

COPY

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

DEPARTMENT OF REVENUE

OFFICE OF FINANCIAL REGULATION

DIVISION OF BOND FINANCE

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
March 20, 2012, commencing at 10:03 a.m.

Reported by:
CAROLYN L. RANKINE
Registered Professional Reporter
Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.
2894 REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
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1 GOVERNOR SCOTT: Now, I would like to
2 recognize Lisa Vickers with the Department of
3 Revenue. I can't just say nice things about
4 Hersch without saying great things about Lisa.
5 They're doing a great job.

6 EXECUTIVE DIRECTOR VICKERS: Thank you.

7 GOVERNOR SCOTT: And revenues are up a
8 little bit, right, above projection?

9 EXECUTIVE DIRECTOR VICKERS: Everything is
10 moving in the right direction.

11 GOVERNOR SCOTT: Yeah.

12 EXECUTIVE DIRECTOR VICKERS: Item 1 is a
13 request for approval of the minutes from the
14 December 6, 2011, meeting.

15 GOVERNOR SCOTT: Is there a motion to
16 approve Item 1?

17 ATTORNEY GENERAL BONDI: Move to approve.

18 GOVERNOR SCOTT: Is there a second?

19 CFO ATWATER: Second.

20 GOVERNOR SCOTT: Moved and seconded,
21 Item 1 is approved without objection.

22 EXECUTIVE DIRECTOR VICKERS: Item 2 is a
23 request for permission to notice proposed
24 rulemaking to amend a number of property tax
25 rules administered by the Department. The

1 rules would -- changes would encompass
2 amendments to conform rules to recent
3 legislative changes related to mapping,
4 exemptions, definitions, Save Our Homes,
5 portability, as well as a number of
6 administrative issues.

7 These proposed rules do include some minor
8 changes to rules related to the value
9 adjustment board process. As a side note,
10 you're aware that we made some major changes to
11 rules related to the value adjustment boards in
12 2010, and we have received a number of
13 challenges from property appraisers and their
14 associations regarding our implementation of
15 these statutory changes to the VAB process.

16 Two of the most controversial areas relate
17 to the exchange of evidence and adjustments
18 that value adjustment boards should make to
19 arrive at just valuation. These issues will be
20 addressed in future rule changes.

21 We continue to advise value adjustment
22 boards, board attorneys, and board clerks on
23 the statutory requirements to ensure due
24 process and promote a high level of public
25 trust and confidence in the process.

1 In a few weeks we will begin publishing a
2 score card on value adjustment board process
3 that compares the types of information that
4 they make available in electronic form and on
5 Internet sites to taxpayers, information
6 regarding the training that has been received
7 by value adjustment board attorneys and special
8 magistrates and clerks, and we'll also provide
9 some data regarding the outcome of petitions in
10 front of value adjustment boards.

11 We have two individuals who have requested
12 to speak this morning on this item,
13 Sheila Anderson and Mr. Todd Jones.

14 GOVERNOR SCOTT: Good morning. How are
15 you today?

16 MS. ANDERSON: I'm fine, thank you. I'd
17 like to briefly congratulate Mrs. Vickers on
18 the birth of her granddaughter, and I'll try to
19 make it brief because I know she's anxious to
20 see the baby who looks beautiful in the
21 pictures.

22 I have -- and I'm going to ask some
23 assistance from clerks -- some documents to
24 give to each of you, and they are marked
25 Governor, AGO, CFO, and others.

1 In the Attorney General's envelope there's
2 a CD and it's specifically -- thanks -- gives
3 you -- these are three documents that affect
4 the public policies that you all have adopted
5 specifically to encourage businesses to move to
6 Florida, to hold the line on property taxes,
7 and to have an ethical process in every respect
8 in the state.

9 The documents that are in the folder
10 undermine those public policies in a variety of
11 ways. And the reason I'm here today is to ask
12 you to make clear to anyone on the local level
13 that you are the heads of state; that you are
14 the Department of Revenue; and that when you
15 speak through your voice, Department of Revenue
16 or some other agency, that they are expressing
17 your policies, and those policies should be
18 adhered to by the people who are charged with
19 implementing them.

20 On the local level, to protect taxpayers
21 from overtaxation, we have a process called the
22 value adjustment board. They are just some
23 voices, one in each county, should be
24 independent and objective and should -- should
25 make sure the laws governing assessments are

1 followed.

2 If the value adjustment boards are in
3 touch with property appraisers, there tends to
4 be and has been for about 30 years a bias in
5 the process. The result of that, somebody knew
6 Senator Atwater in -- I think it was 2008 or '9
7 now, I don't remember -- was helpful in getting
8 something adopted called House Bill 909. House
9 Bill 909 charged the Department of Revenue to
10 adopt rules and regs to make sure the process
11 was ethical and independent and taxpayers
12 rights to due process were protected.

13 You'll see in the first document, which
14 was written by an attorney who represents
15 property appraisers around the state, his
16 conclusion is, from some of the litigation that
17 the Department of Revenue need not be
18 respected. To me that means that you need not
19 be respected because he suggests there is no
20 enforcement authority for the Department of
21 Revenue to come in and say to a value
22 adjustment board, you need to follow the
23 certain rules that we have promulgated.

24 Whether or not there is a connection
25 lawfully or -- or obviously between the

1 property appraisers and the value adjustment
2 boards, as you'll see the second document,
3 Hillsborough County, received a letter from
4 DOR. The CD that is in the package I gave to
5 the Attorney General is the meeting on
6 March 1st where that letter was on the agenda.
7 They did not do a thing. They scheduled a
8 workshop in the end of June. So there are
9 3,000 petitioners who may not have had lawful
10 hearings. If you don't have lawful hearings
11 and you're overpaying taxes, that's one harm.

12 If you are a bond investor in bonds,
13 whether or not the full faith and credit of the
14 taxing authority is included and upheld in the
15 bonds that may be issued, if the dollars
16 collected don't comply with the law is a
17 question I can't answer.

18 But I invest in bonds on occasion, some of
19 them from Florida, and I have questions about
20 whether or not now those tax dollars really
21 represent the full faith and credit of the
22 taxing jurisdiction, if this process which
23 affects a couple of hundred thousand people
24 around the state every year is not following
25 the law. So there is a ripple effect when the

1 laws are not being followed.

2 And you have said, we want fair taxation;
3 you have said, we want to encourage business;
4 you have said that you want the ethics of the
5 state to be complied with. And it's
6 unfortunate when a local jurisdiction thinks it
7 does not need to do that and it does not
8 respond when the Department of Revenue speaks.
9 Not just in Hillsborough, Hernando County,
10 Monroe County, Palm Beach County,
11 Broward County, it's everywhere throughout the
12 state that there are people who seem to think
13 they don't have to follow what the Department
14 of Revenue is telling them.

15 And again from my perspective as the
16 taxpayer, I see you as the Department of
17 Revenue as the head of state. So when they
18 speak, it's because you have given them the
19 authority, and it needs to be respected by
20 everybody if you want businesses to want to
21 come here.

22 One of the things that drives businesses
23 away or scares them is the third document.
24 There is a rule that says, confidential
25 information including federal tax returns need

1 not be provided or should not be requested
2 unless there is a need for them, and the
3 assessments cannot be developed without that
4 information.

5 One of the letters is attached behind the
6 rule. I'm told by somebody who is here today
7 who may not speak that one letter that has been
8 circulated over the years actually threatened
9 taxpayers, and said if you don't give us the
10 information, we will raise your assessment,
11 which means raise your taxes. Kind of
12 threatening and would scare businesses.

13 And I talk to people from all over the
14 country on a regular basis who call and want to
15 know what they need to know about Florida, and
16 if you have that kind of document in
17 circulation, you can be sure it undermines your
18 efforts to attract business. And no one is
19 going to tell you that that's going to happen
20 to them, they may not even be aware of it
21 specifically but there's an environment that
22 needs to be addressed.

23 So at the bottom of the cover sheet, there
24 are some things that would be helpful if you
25 considered them. One of them, very important,

1 is stand up and support property tax
2 oversight. It's the difference between taxing
3 people without limit and holding the line and
4 keeping things lawful and fair. That's
5 critical.

6 And it needs to be clear to everybody in
7 the state that the Department of Revenue, and
8 PTOs specifically, speak on your behalf and
9 that you do have authority, and if people break
10 the law you'll step up and intervene, and that
11 you expect the local jurisdictions to follow
12 what the state has spent a great deal of time
13 and money developing which are the rules of
14 procedure that Mrs. Vickers referred to today.

15 We've all spent a great deal of time,
16 years in fact, working on having a fair process
17 that's ethical and comes out protecting
18 government as well as individual taxpayers so
19 that everybody should be comfortable that
20 everything that takes place in a hearing is
21 fair.

22 There is one document, it's called
23 12D-10.003, *Florida Administrative Code*, it is
24 part of the rules that were adopted when 909
25 took effect. And that document of findings,

1 the findings of hearings, if the findings are
2 clear and follow that rule, then everybody
3 would know whether or not the hearings are fair
4 and whether or not the resulting taxes are
5 appropriate.

6 So I have suggested in -- on this page
7 that some procedures are implemented to review
8 the 12D-10 relationship with the findings; and
9 if the findings are found to be lacking, that
10 they be sent back and corrected until they
11 comply. If they comply, then everybody will
12 know what took place and whether or not it's
13 lawful.

14 So I defer to Todd Jones. But they do a
15 really good job, have done a really good job in
16 PTO. They are critical if you want to attract
17 business to the state to make sure that every
18 business that comes here knows that you are
19 watching this process and are prepared to
20 protect.

21 GOVERNOR SCOTT: Thank you very much. And
22 I see you have a number of actions requested
23 for each one of us. We'll each look at this.

24 MS. ANDERSON: Thank you very much.

25 GOVERNOR SCOTT: All right. Thank you

1 very much.

2 MR. JONES: Good morning. I'll be brief.
3 I'm appearing this morning as the President of
4 the Florida Association of Property Tax
5 Professionals. I've been in the -- involved in
6 this arena, the value adjustment board arena
7 and property tax in general, for about
8 27 years. I teach at the University of Florida
9 in the business school, and for about
10 eight years I was a member of the largest
11 property tax practice in the world.

12 First of all, I want to make sure that
13 each of you understand what a pleasure it is
14 dealing with the Department these days. Under
15 Ms. Vickers' leadership we have seen a playing
16 field that is open-armed and more evenhanded
17 than by any of her predecessors. So major vote
18 of confidence from the general public, if you
19 will, those who are intimate in terms of
20 dealing with them on a regular basis.

21 That said, I cannot agree more with the
22 comments that Ms. Anderson just made. The
23 private sector job creation and economic
24 development is being hampered by the fact that
25 essentially the foxes are guarding the hen

1 house. Florida's property tax system is
2 structurally flawed. I've had discussions over
3 in the Legislature where we have some ideas on
4 how to -- how to improve things.

5 The bottom line is the founders created
6 three branches of government for a reason.
7 Right now we don't have that kind of judicial
8 independence in this important function that
9 impacts every property owner in the state, most
10 of whom are voters.

11 So not to belabor the issue, there's one
12 other point that I think needs to be addressed,
13 and that is voters don't have a clue how much
14 money, their money is being spent by property
15 appraisers in litigation over issues because
16 they don't like the statutes. They don't like
17 the way that the Department has interpreted the
18 statutes.

19 In a case that was recently settled in the
20 Department [sic] of Administrative Hearings,
21 *Turner vs. DOR*, 65 of our 67 property
22 appraisers piled on on this thing. They had no
23 less than eight lawyers involved; the
24 Department had one. There was an amicus
25 representation and one associate -- business

1 association that also weighed in as an amicus.

2 Where is that money coming from, how much
3 are they spending? It's quite frankly
4 offensive as a taxpayer to know that somebody I
5 voted for or somebody who is holding elected
6 office has an agenda that is anti-taxpayer.

7 That said, we would like to suggest that a
8 comprehensive accounting of all local
9 government expenditures on property tax
10 lobbying and litigation over the last 10 years
11 be conducted, like to bring that into the
12 sunshine, because it's not readily available.
13 And, in fact, pulling it together has met with
14 a number of obstacles.

15 Also, just echoing Ms. Anderson's
16 comments, the -- Mr. Governor, Cabinet, however
17 it's appropriate, some type of executive order
18 directed at the officials participating in the
19 value adjustment board process, the county
20 commissioners, school board members, clerks who
21 are by virtue of the memo that was just
22 provided to you from one of the property
23 appraisers associations, which in effect is the
24 voice of the property appraisers, is advocating
25 they need not adhere to Florida law. I don't

1 know how you can stand by and tolerate that.
2 Thank you for your time.

3 GOVERNOR SCOTT: Thank you very much. All
4 right.

5 EXECUTIVE DIRECTOR VICKERS: We request
6 approval of the authority to move forward with
7 these proposed rules that really are minor
8 changes to the various provisions, but we
9 recognize the very significant concern that is
10 continuing to be expressed regarding the public
11 and the value adjustment board process but we
12 recognize the -- and the faith and trust in
13 that process.

14 GOVERNOR SCOTT: Okay. All right. Is
15 there a motion to approve Item 2?

16 COMMISSIONER PUTNAM: So moved.

17 GOVERNOR SCOTT: Is there a second?

18 CFO ATWATER: Second.

19 GOVERNOR SCOTT: Moved and seconded,
20 Item 2 is approved without objection.

21 EXECUTIVE DIRECTOR VICKERS: Thank you.
22 Item 3 requests authority to adopt rule
23 amendments to rules 12B-4.003 and .060
24 clarifying the application of documentary stamp
25 tax to transfers of ownership interests in

1 legal entities to which real property was
2 transferred without tax on full consideration.
3 We recommend approval of this rule.

4 GOVERNOR SCOTT: Is there a motion to
5 approve Item 3?

6 CFO ATWATER: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Moved and seconded,
10 Item 3 is approved without objection. Anything
11 else, Lisa?

12 EXECUTIVE DIRECTOR VICKERS: That's it.

13 GOVERNOR SCOTT: All right. Thank you
14 very much.

15 EXECUTIVE DIRECTOR VICKERS: Thank you.

16 COMMISSIONER PUTNAM: Congratulations.

17 EXECUTIVE DIRECTOR VICKERS: Oh, thank
18 you. My stepson's first baby.

19 ATTORNEY GENERAL BONDI: You're not old
20 enough.

21

22

23

24

25

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

DIVISION OF EMERGENCY MANAGEMENT

ENTERPRISE FLORIDA

OFFICE OF FINANCIAL REGULATION

OFFICE OF INSURANCE REGULATION

CITIZENS PROPERTY INSURANCE

PAROLE COMMISSION

DEPARTMENT OF REVENUE

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

DIVISION OF BOND FINANCE

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday, June
26, 2012, commencing at 9:08 a.m.

Reported by:

CAROLYN L. RANKINE

Register Professional Reporter

Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.

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APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

1 GOVERNOR SCOTT: All right. Members we
2 have another appointment for consideration. As
3 you know, Lisa Vickers will be joining the
4 Senate President's office next month -- can't
5 imagine why she would want to do that. The
6 President Designate Gaetz holds Lisa in the
7 same high esteem we do and we wish her well and
8 know that she will be an asset to his team.

9 Lisa was not able to be in attendance this
10 morning, I think she's already gone to the
11 other side, but I'm certain each of us has had
12 an opportunity to congratulate Lisa and express
13 our appreciation for her service to the state.
14 Lisa -- I think all of us would say the same
15 thing -- Lisa did a great job on behalf of the
16 state. And the Department of Revenue has been
17 very well run and is very well received both in
18 our state and around the country. So she's
19 done a great job. She'll be missed.

20 All right. Is there a motion to appoint
21 an interim director?

22 ATTORNEY GENERAL BONDI: Yes, Governor. I
23 would move at this time to appoint
24 Marshall Stranburg as Interim Executive
25 Director. He currently serves as the Deputy

1 Executive Director of Department of Revenue for
2 more than 20 years experience at that
3 Department. He's been legal adviser to the
4 Department for many years, he's known
5 nationally in matters of state taxation, and at
6 this time I would move him as interim
7 director.

8 GOVERNOR SCOTT: All right. Is there a
9 second?

10 COMMISSIONER PUTNAM: Second.

11 GOVERNOR SCOTT: Is there public comment
12 on the appointment of interim director? Yes,
13 ma'am. Good morning. Still morning. Good
14 morning.

15 MS. ANDERSON: Good morning. Thank you
16 for giving me a moment to speak. First of all,
17 Mr. Stranburg is --

18 GOVERNOR SCOTT: Can you introduce
19 yourself.

20 MS. ANDERSON: I'm sorry. My name is
21 Sheila Anderson. I live and work in Ocala,
22 Florida, which had five minutes of sunshine
23 yesterday --

24 GOVERNOR SCOTT: I know, not much. And
25 it's not going to have much tomorrow either.

1 MS. ANDERSON: There's hope, in any case,
2 that the storm will keep moving.

3 Mr. Stranburg's credentials and
4 qualifications as Interim Director are
5 surpassed by his qualifications and credentials
6 to be a permanent Executive Director of the
7 Department of Revenue, and I want to make that
8 point not only on my own behalf in some
9 communication with him, but also from other
10 people who have dealt with him have it said
11 that even when there is a disagreement with
12 whatever policy or positions which they have an
13 interest, his reasoning and positions have
14 always been based on the law and have always
15 been principled and he has always conducted
16 himself in an exemplary manner.

17 So I think you've made a wise decision.
18 And I hope that you will consider him for a
19 permanent job. The only question I have is
20 what opportunities there are to find somebody,
21 if one would exist, who would be even more
22 qualified. And that's not because he isn't at
23 least for the moment my first choice and
24 others' first choice, the question is on behalf
25 of all the people in the state in a public

1 process where any executive director from any
2 agency is -- is identified in a public process
3 and that there are previously published
4 criteria for the job.

5 Before Lisa was appointed as executive
6 director, the people who served in that
7 capacity were not professionally trained and
8 did not always represent the people of the
9 state in the way we would have liked.

10 Lisa Vickers has changed a great deal of the
11 agency. There's still a little bit of work
12 left to be done as you may know. So
13 Marshall Stranburg's appointment today is a
14 good step in continuing the progress that's
15 been made and hopefully he'll continue.

16 I brought with me today -- I'm not going
17 to take your time -- some documents that relate
18 to the Value Adjustment Board meeting in
19 Hillsborough County that was scheduled today at
20 9:00, and a workshop that was scheduled to
21 follow it. In response to the letter
22 Steve Keller wrote that was given to you a few
23 months ago, they didn't -- they never responded
24 to the letter.

25 There are a number of reasons why

1 taxpayers who appeal their assessments in
2 Hillsborough County might have reason to be
3 concerned about the lawfulness and integrity of
4 that process as a result of the lack of a
5 response to Steve's letter. So some of us
6 developed some questions to be asked about the
7 due process environment in that county. I
8 asked each of your offices if somebody was
9 going to attend the meeting and I never got a
10 response, although I have met with some Cabinet
11 aides who discussed what was going on there and
12 what was necessary.

13 One of the things that has occurred in the
14 Department of Revenue for which we should all
15 be grateful is that for the first time a
16 supreme court litigation the Department
17 presented an amicus brief on behalf of a
18 taxpayer. I don't think that's ever happened
19 before. And I think it's for the first time a
20 real good step in the right direction of
21 fairness and integrity and compliance with the
22 laws that govern taxation -- property
23 taxation.

24 And it would be a good idea to having
25 opened the door and set that precedent to

1 consider other circumstances where similar
2 attention to what the law is and exhibiting
3 complied by the local jurisdictions and having
4 the Department take a stand that's based on
5 compliance with the law and leave politics out
6 of it. And there are some examples in Miami
7 where some of that might be appropriate. So I
8 have put together some documents for you to
9 review that would address what's going on.

10 In Miami the property appraiser is suing
11 well over a hundred taxpayers over the Value
12 Adjustment Board decisions but never challenged
13 the decisions with DOR, never suggested the
14 special magistrates were being -- acting
15 improperly. So while they may have authority
16 to sue by statute, but the credibility of their
17 decisions leaves a lot to be desired.

18 Investigation of that environment by somebody
19 representing any of your offices, Inspector
20 General is one suggestion, would be a very good
21 idea.

22 Also to let you know in the draft training
23 materials that the Department of Revenue has
24 circulated for comments there is a new
25 inclusion, the canon of ethics of the supreme

1 court of the state. That is an absolutely
2 needed and very welcomed addition. The problem
3 is there's no enforcement mechanism. So on a
4 local level if somebody does not comply with
5 the law, there is no place to go to say, hey,
6 I'm not getting my lawful protection.

7 If you're a taxpayer, you're told to sue
8 the property appraiser over value, but that
9 does not address any instances of malfeasance.
10 And there's a definition of that in there that
11 I think is very appropriate you may want to
12 consider. So I have put a tag on each of the
13 documents.

14 I'm going to wind up by saying I shouldn't
15 be here, and I shouldn't know what's going on,
16 and I shouldn't be asking for improvements.
17 It's been -- the point has been made, the
18 question has been asked of me is who is
19 responsible for monitoring this important
20 process, and the answer is there isn't
21 anybody.

22 So you need to consider, and I've asked
23 this before, a means of setting a process for
24 anyone who thinks that they are not being
25 assessed lawfully and their due process rights,

1 their constitutional rights are not being
2 addressed properly needs to have a mechanism
3 for complaint, and then an enforcement
4 mechanism. That's missing. And that's the end
5 piece of the canon of ethics, which is terrific
6 and wonderful except it doesn't take us to a
7 finality what happens if you face this.

8 And you'll see in Hillsborough County
9 three magistrates appear to have conflicts of
10 interests one of whom I believe was a subject
11 of a recent Attorney General's Opinion which
12 was really great, but again what happens if
13 they don't do anything about it today.

14 GOVERNOR SCOTT: Okay. Well, first of
15 all, thank you very much for your comments
16 about Marshall.

17 MS. ANDERSON: Thank you.

18 GOVERNOR SCOTT: And each of us will look
19 at this material and -- and see what is the
20 appropriate action. But thank you very much
21 for coming and taking your time to do this.
22 We're very appreciative.

23 MS. ANDERSON: Thank you.

24 ATTORNEY GENERAL BONDI: Drive safely.

25 MS. ANDERSON: Thank you. By the way, may

1 I just add on a personal note that all the maps
2 and charts of flooding are great, but it would
3 be very helpful to know what roads have been
4 blocked around the state, and if that
5 information becomes available, if that were
6 published.

7 I came up by I-90 -- I-75 yesterday, and
8 cut over and 90 and it was clear the whole --
9 it wasn't -- it was raining, but I didn't
10 encounter flooding. And I went through Live
11 Oak, and that was passable. Going back, it's a
12 challenge to know which roads are going to be
13 safe and where there are going to be problems.
14 And I think that would help --

15 GOVERNOR SCOTT: Okay.

16 MS. ANDERSON: -- commercial traffic as
17 well.

18 GOVERNOR SCOTT: Thank you.

19 COMMISSIONER PUTNAM: I-10 is closed.

20 MS. ANDERSON: I'm sorry?

21 COMMISSIONER PUTNAM: I said, don't take
22 I-10 home.

23 MS. ANDERSON: Well, thank you. I didn't
24 take it over, and I didn't take 301.

25 GOVERNOR SCOTT: This is a full-service

1 cabinet.

2 (Laughter.)

3 COMMISSIONER PUTNAM: Mile marker 321.

4 MS. ANDERSON: Well, the question is, is
5 27A clear and that's so close to the coast
6 there. It could be flooding, and Suwannee
7 River is very low at that point so there's no
8 way to get back.

9 GOVERNOR SCOTT: I think if you call
10 the -- Julie, if you call the highway patrol --

11 MS. ANDERSON: Yeah.

12 GOVERNOR SCOTT: -- they will be able to
13 tell you, right?

14 EXECUTIVE DIRECTOR JONES: That's
15 correct --

16 MS. ANDERSON: I appreciate that. It's a
17 very good suggestion. It should be however
18 public service announcements on radios and
19 other places, it would help everybody to know
20 where it's safe.

21 GOVERNOR SCOTT: Okay. Thank you.

22 MS. ANDERSON: Thank you.

23 GOVERNOR SCOTT: Okay. All right.

24 Having -- Marshall Stranburg's Interim Director
25 appointment has been moved and seconded. The

1 appointment is approved without objection.

2 Marshall, are you here? Just stand up.

3 Congratulations. Thanks for your service.

4 (Applause.)

5 GOVERNOR SCOTT: Do you have any of your
6 family with you?

7 MR. STRANBURG: No, I do not.

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ATTACHMENT 2



Interim
Executive
Director
Marshall Stranburg

September 18, 2012

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Marc Slager, Deputy Chief of Staff/Cabinet Affairs Director
Rachel Goodson, Cabinet Aide

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Cabinet Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer Services
Attention: Jim Boxold, Chief Cabinet Aide
Brooke McKnight, Cabinet Aide

THRU: Marshall Stranburg, Interim Executive Director

FROM: Andrea Moreland, Director, Legislative and Cabinet Services *JEM*

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules – *Property Tax Oversight*

Statement of Sections 120.54(3)(b) and 120.541, F.S. Impact: No impact.

The Department has reviewed the proposed rules for compliance with Sections 120.54(3)(b) and 120.541, F.S. The proposed rules will not likely have an adverse impact on small business, small counties, or small cities, and they are not likely to have an increased regulatory cost in excess of \$200,000 within 1 year. Additionally, the proposed rules are not likely to have an adverse impact or increased regulatory costs in excess of \$1,000,000 within 5 years.

What is the Department Requesting? The Department requests final adoption of the following proposed rules:

- Chapter 12D-1, General Rules, including amendments to Rules 12D-1.009 and 12D-1.010, F.A.C.

Child Support Enforcement – Ann Coffin, Director • General Tax Administration – Jim Evers, Director
Property Tax Oversight – James McAdams, Director • Information Services – Tony Powell, Director

www.myflorida.com/dor
Tallahassee, Florida 32399-0100

- Chapter 12D-2, Assessment of the Property of Railroads, Railroad Terminal Companies, Private Car, Freight Line and Equipment Companies by the Department of Revenue, including an amendment to Rule 12D-2.001, F.A.C.
- Chapter 12D-5, Agricultural and Outdoor Recreational or Park Lands, including an amendment to Rule 12D-5.004 and proposed new Rule 12D-5.014, F.A.C.
- Chapter 12D-7, Exemptions, including proposed new Rule 12D-7.0055, an amendment to Rule 12D-7.006, an amendment to Rule 12D-7.013, proposed new Rule 12D-7.0142, an amendment to Rule 12D-7.0143, proposed new Rule 12D-7.019, and proposed new Rule 12D-7.020, F.A.C.
- Chapter 12D-8, Assessment Roll Preparation and Approval, including an amendment to Rule 12D-8.0061, proposed new Rule 12D-8.00659, and proposed new Rule 12D-8.022, F.A.C.
- Chapter 12D-9, Requirements for Value Adjustment Boards in Administrative Reviews; Uniform Rules of Procedure for Hearings Before Value Adjustment Board, including amendments to Rules 12D-9.015 and 12D-9.036, F.A.C.
- Chapter 12D-16, Administration of Forms, including amendments to Rules 12D-16.001 and 12D-16.002, F.A.C.
- Chapter 12D-17, Truth in Millage (TRIM) Compliance, including amendments to Rules 12D-17.004, 12D-17.005, and 12D-17.006, F.A.C.
- Chapter 12D-18, Non-Ad Valorem Assessments and Special Assessments, including proposed new Rule 12D-18.012, F.A.C.

Rule 12D-1.009, Mapping Requirements

Why is the proposed rule necessary? The proposed rule amendment is needed to clarify reporting requirements for property parcel numbers to ensure substantially uniform maps throughout the state, as required by s. 195.022, F.S.

What does this proposed rule do? The proposed rule amendment requires the entire parcel number to be used on property maps as listed on the county tax roll, rather than only the last four digits as provided in the current rule.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. A comment was received on paragraph (1)(b) of the proposed language, and draft text was removed from the first sentence of this paragraph. A public hearing was held May 1, 2012, and no further comments were received during or since the hearing.

Rule 12D-1.010, Reconciliation of Interim Tax Rolls – Form of Notification

Why is the proposed rule necessary? The proposed rule amendment is needed to comply with the change made to s. 195.022, F.S., by Section 1 of Chapter 2009-67, L.O.F.

What does this proposed rule do? The proposed rule amendment removes the requirement that the Department provide paper forms to counties with populations of 100,000 or fewer. The Department will continue to provide an electronic version on its website for the counties' use. This proposed change was made to create a cost benefit to the state.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-2.001, Definitions

Why is the proposed rule necessary? The proposed rule amendment is needed to address a request from the Joint Administrative Procedures Committee that arose during the Department's implementation of Chapter 2008-173, L.O.F. The proposed amendment is also needed to address an existing requirement of s. 195.073, F.S., concerning the classification of property.

What does this proposed rule do? The proposed rule amendment defines the term "centrally assessed property" for one of the classifications of property on the tax roll.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-5.004, Applicability of Other Factors to Classification of Agricultural Lands

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 193.461(3)(b), F.S., by Section 2 of Chapter 2008-197, L.O.F.

What does this proposed rule do? The statutory change prohibits the establishment of a minimum acreage size as a condition for a parcel to be considered as being used for "bona fide agricultural purposes." This provision is added to the rule for clarification to county property appraisers.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. The Department received two written comments prior to the workshop. These comments were discussed and the rule title was amended for consistency with the proposed amendment. A public hearing was held May 1, 2012, and the title was amended again based on public comments.

Rule 12D-5.014, Conservation Easement, Environmentally Endangered or Outdoor Recreational or Park Property Assessed Under Section 193.501, F.S.

Why is the proposed rule necessary? Creation of the proposed rule is needed to implement changes to s. 193.501, F.S., made by Section 2 of Chapter 2009-157, L.O.F.

What does this proposed rule do? The statutory changes add a requirement that an application be filed with the property appraiser for a conservation easement assessment and require the Department of Revenue to prepare a short form taxpayer's can use to reapply annually. The proposed rule provides instructions and describes the usage of new Forms DR-482C, Land Used for Conservation Assessment Application, and DR-482CR, Land Used for Conservation Assessment Reapplication, and describes the usage of the two forms.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-7.0055, Exemption for Deployed Servicemembers.

Why is the proposed rule necessary? Creation of the proposed rule is needed to implement s. 196.173, F.S., created by Section 1 of Chapter 2011-93, L.O.F.

What does this proposed rule do? The new statute adds an exemption for deployed servicemembers on active duty in specified military operations outside the continental United States, Alaska, or Hawaii, and requires the Department to create a form for the exemption application. The proposed rule was previously certified as Emergency Rule 12DER11-18 on November 29, 2011 and Emergency Rule 12DER12-03 on May 23, 2012. The proposed rule provides definitions, application instructions, and information for the property appraiser. Form DR-501M, Deployed Military Exemption Application, was created for application by the servicemember to the property appraiser.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. Comments were received and considered. A public hearing was held May 1, 2012, and no further comments were received during or since the hearing. A revision was made to Paragraph (2)(c) changing a 'may' to 'must', based on a JAPC comment. Also, technical changes were made from 'shall' to 'must' or 'will.'

Rule 12D-7.006, Exemption for Totally and Permanently Disabled Persons.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 196.101, F.S., by Section 1 of Chapter 2007-121, L.O.F.

What does this proposed rule do? The statutory change adds an option for a totally and permanently disabled person, as a result of legal blindness, to use an optometrist's certification as one of the certificates of disability that must be filed with the property appraiser to receive the disability exemption. Subsection (5) of the proposed rule adds the optional provision for the additional certification to qualify for the disability exemption. Form DR-501S, Eligibility Criteria to Qualify for Property Tax Exemption, is removed from the proposed rule and the information found on that form is being added to Form DR-501, Original Application for Homestead and Related Tax Exemptions.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-7.013, Homestead Exemptions – Abandonment.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 196.031(6), F.S., by Section 1 of Chapter 2010-176, L.O.F.

What does this proposed rule do? The statutory changes provide that, after a specific period, the expiration, lapse, nonrenewal, or revocation of a building permit issued to a property owner for repairs or rebuilding constitutes abandonment of the property as the owner's homestead. The proposed rule amendment helps property appraisers implement the statutory change regarding abandonment of property as a homestead.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-7.0142, Additional Homestead Exemption.

Why is the proposed rule necessary? The proposed new rule is needed to implement changes made to s. 196.031(7), F.S., by Section 8 of Chapter 2008-173, L.O.F.

What does this proposed rule do? The statute provides up to a \$25,000 exemption on the assessed valuation of a homestead when the value is greater than \$50,000, for all levies other than school district levies. The proposed rule was previously certified as Emergency Rule 12DER11-08 on May 27, 2011. The proposed rule explains the procedures for the additional homestead exemption and how the current Form DR-501, Original Application for Homestead and Related Tax Exemptions, is used as the application for the exemption.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-7.0143, Additional Homestead Exemption Up to \$50,000 for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 196.075, F.S., by Section 1 of Chapter 2007-4, L.O.F.

What does this proposed rule do? The proposed rule amendment reflects the statutory change in the exemption amount from \$25,000 to \$50,000. Tax rolls for years 2008 through the present year reflect the increase.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or since the hearing.

Rule 12D-7.019, Tangible Personal Property Exemption.

Why is the proposed rule necessary? The proposed new rule is needed to implement the creation of s. 196.183, F.S., by Section 8 of Chapter 2007-339, L.O.F., and the subsequent amendment of the new statute by Section 9 of Chapter 2008-173, L.O.F.

What does this proposed rule do? The proposed new rule implements the \$25,000 statutory exemption, describes the usage of proposed new Form DR-405W, Notice to Taxpayer Whose Tangible Personal Property Return was Waived in the Previous Year, and instructs the property appraiser on how to use the proposed form. The proposed rule was previously certified as Emergency Rule 12DER11-07 on May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held on May 1, 2012, and no comments were received. Subsequently, a change was made to Subsection (4)(b), clarifying the example based on a comment from JAPC.

Rule 12D-7.020, Exemption for Real Property Dedicated in Perpetuity for Conservation.

Why is the proposed rule necessary? The proposed new rule is needed to implement s. 196.26, F.S., created by Section 1 of Chapter 2009-157, L.O.F.

What does this proposed rule do? The proposed rule explains the criteria for an exemption, the process for applying for the exemption provided in s. 196.26, F.S., and the usage of new Forms DR-418C, Real Property Dedicated in Perpetuity for Conservation, Exemption Application, and DR-418CR, Real Property Dedicated in Perpetuity for Conservation, Exemption Renewal. The proposed rule was previously certified as Emergency Rule 12DER10-01 on April 8, 2010, and included new Form DR-418C, Real Property Dedicated in Perpetuity for Conservation, Exemption Application.

Were comments received from external parties? Public workshops were held February 15, 2010, and July 19 and 20, 2011. Comments were received and considered, and appropriate changes were made to the proposed rule language and forms. A public hearing was held May 1, 2012, and no further comments were received during or after the hearing.

Rule 12D-8.0061, Assessments; Homestead Property Assessments at Just Value.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement statutory changes made to s. 193.155(3), F.S., by Section 1 of Chapter 2010-109, L.O.F.

What does this proposed rule do? The statute provides when there is no change of ownership for purposes of determining the assessed value of homestead property. The proposed rule amendment establishes additional criteria for determining if there is a change of ownership regarding the assessment of property.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-8.00659, Notice of Change of Ownership or Control of Non-Homestead Property.

Why is the proposed rule necessary? The proposed new rule is needed to implement s. 193.1556, F.S., created by Section 14 of Chapter 2007-339, L.O.F., and amended in Section 6 of Chapter

2008-173, L.O.F., and to implement changes to ss. 193.155, 193.1554, 193.1555, and 193.1556, F.S., amended by Chapter 2010-109, L.O.F.

What does this proposed rule do? The proposed new rule provides certain property owners with the procedures they should use to inform property appraisers about any change of ownership.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. A written comment was received prior to the workshop, considered by the Department, and could not be incorporated into the draft Rule. A public hearing was held May 1, 2012, and no further comments were received during or after the hearing. A correction was made to the reference to Form DR-430M in subsection (7)(b) of the rule, based on comments from JAPC.

Rule 12D-8.022, Reporting of Fiscal Data by Fiscally Constrained Counties to the Department of Revenue.

Why is the proposed rule necessary? The proposed new rule is needed to implement the provisions of Section 16 of Chapter 2008-173, L.O.F. This law creates appropriations to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties. The appropriation money was provided in 2009 by Ch. 2009-81, L.O.F., pg. 358; in 2010 by Ch. 2010-152, L.O.F., pg. 376; in 2011 by Ch. 2011-69, L.O.F., pg. 350; and in 2012 by Ch. 2012-118, L.O.F., pg. 364; see General Appropriations Act.

What does this proposed rule do? The rule establishes procedures for fiscally constrained counties to comply with the requirements of ss. 218.12 and 218.125, F.S. The proposed rule was previously certified as Emergency Rule 12DER11-09 on May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-9.015, Petition; Form and Filing Fee.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement the provisions of s. 197.2425, F.S., as revised by Section 13 of Chapter 2011-151, L.O.F.

What does this proposed rule do? The proposed rule outlines the process for tax collectors to notify taxpayers of their determination of eligibility for deferrals and to provide taxpayer's an appeal procedure to the Value Adjustment Board in cases where the deferral is denied. Paragraphs (b) and (e) of subsection (7) remove the term 'homestead' to allow for all types of deferrals. Paragraph (e) also removes a due date to reflect the creation of s. 197.2425, F.S. The due dates are the same for all types of deferral denials: homestead property, affordable housing property and working waterfront property.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. A written comment was received prior to the workshop, considered by the Department,

and incorporated into the draft Rule. A public hearing was held May 1, 2012, and no further comments were received during or after the hearing.

Rule 12D-9.036, Procedures for Petitions on Denials of Tax Deferrals.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement s. 197.2425, F.S., created by Section 13 of Chapter 2011-151, L.O.F.

What does this proposed rule do? The proposed amendment removes repealed statutory references from s. 197.253, F.S., and adds a reference to new s. 197.2425, F.S.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-16.001, Administration of Forms.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 195.022, F.S., by Section 1 of Chapter 2009-67, L.O.F.

What does this proposed rule do? The proposed rule amendment conforms with the law change by removing the statement that the Department will furnish forms to counties with a population of 100,000 or less and removing information relating to the requisition of certain forms by those counties. The Department will continue to provide electronic copies on its website.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-16.002, Index to Forms.

Why is the proposed rule necessary? The proposed rule amendments are needed to update the Department's list of forms to reflect the most recent version dates and effective dates of the proposed new and revised forms.

What does this proposed rule do? The proposed rule amendments reflect the corrections to titles, new or amended revision dates and effective dates. It also adds new forms implementing and amending existing forms due to legislative changes and updates.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012. Comments were received on Form DR-493, Adjustments Made to Recorded Selling Prices or Fair Market Value in Arriving at Assessed Value. No changes were made to this form based on the comment.

Rule 12D-17.004, Taxing Authority's Certification of Compliance; Notification by Department.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement changes made to s. 200.065, F.S., by Section 2 of Chapter 2007-321, L.O.F, and Section 11 of Ch. 2008-173, L.O.F.

What does this proposed rule do? The statute addresses the maximum millage rate that may be imposed and the circumstances under which the millage rate may exceed the maximum rate. The proposed rule amendment sets out the procedures to be used to establish compliance with the Truth-in-Millage provisions of s. 200.065, F.S. The proposed rule was previously certified as Emergency Rule 12DER11-11 on May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing. A change was made to clarify the incorporation of forms in subparagraph 15 of subsection (2), paragraph (a) and in subparagraph 15 of subsection (2), paragraph (b), based on comments from JAPC.

Rule 12D-17.005, Taxing Authorities in Violation of Section 200.065, Florida Statutes.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement the changes made to s. 200.065, F.S., by Section 11 of Ch. 2008-173 L.O.F.

What does this proposed rule do? The statute addresses the maximum millage rate that may be imposed and the circumstances under which the millage rate may exceed the maximum rate. The proposed rule amendment provides that any taxing authority that violates the requirements of s. 200.065(5), F.S., must remedy the violation or will forfeit the one-half cent sales tax revenue, as provided by s. 200.065(13), F.S. The proposed rule was previously certified as emergency rule 12DER11-11, effective May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-17.006, Notification of Noncompliance; Withholding and Escrow of State Revenue Sharing Funds.

Why is the proposed rule necessary? The proposed rule amendment is needed to implement the changes made to s. 200.065, F.S., by Section 11 of Ch. 2008-173, L.O.F.

What does this proposed rule do? The proposed rule incorporates the process of notification of noncompliance when a taxing authority violates s. 200.065(5), F.S., and describes the procedure to be used by the taxing authority to remedy the noncompliance, as provided by s. 200.065(13)(d) and (e), F.S. The proposed rule was previously certified as Emergency Rule 12DER11-11 on May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Rule 12D-18.012, Tax Collector Non-Ad Valorem Assessment Roll Reports.

Why is the proposed rule necessary? The proposed new rule is needed to implement the amendment of s. 197.3632, F.S., by Section 10 of Ch. 2008-173, L.O.F.

What does this proposed rule do? The proposed rule outlines a uniform process for tax collectors to compile data elements and provide the annual non-ad valorem assessment report to the Department as required under s. 197.3632(5)(b), F.S. The proposed rule was previously certified as Emergency Rule 12DER11-04 on May 27, 2011.

Were comments received from external parties? Public workshops were held July 19 and 20, 2011. No comments were received. A public hearing was held May 1, 2012, and no comments were received during or after the hearing.

Attached are copies of:

- Summaries of the proposed rules, which include:
 - Statements of facts and circumstances justifying the rules;
 - Federal comparison statements; and
 - Summaries of workshops and hearings.
- Rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-1.009 AND 12D-1.010, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed amendment to Rule 12D-1.009, F.A.C., removes outdated language and clarifies reporting requirements for the parcel numbers on the property maps.

The proposed amendment to Rule 12D-1.010, F.A.C., removes language instructing the Department to provide paper forms to the county offices.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendment to Rule 12D-1.009, F.A.C., (Mapping Requirements) is to clarify reporting requirements for parcel numbers on the tax rolls. The uniform requirement addressed in this amendment is that the property appraiser must maintain the full parcel number.

The purpose of amending Rule 12D-1.010, F.A.C., (Reconciliation of Interim Tax Rolls – Form of Notification) is to conform with changes to Section 195.022, F. S., made by Chapter 2009-67, Laws of Florida, which remove requirements that the Department is to provide paper forms to the counties.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. Comments were received at the workshop and the Department removed the amendment to subsection (1)(b) of Rule 12D-1.009 after the workshop.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-1.009 and 12D-1.010, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held on May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

In response to comments provided by the Joint Administrative Procedures Committee on April 24, 2012, a Notice of Correction was published on May 18, 2012 to correct language to the Summary of Statement of Estimated Regulatory Costs and Legislative Ratification. This rule does not have an adverse impact on small business. No comments were received from the public.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-2, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 12D-2.001, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed amendment to Rule 12D-2.001, F.A.C., adds a definition of Centrally Assessed Property as requested by Joint Administrative Procedures Committee.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendment to Rule 12D-2.001, F.A.C. (Definitions), is to add a definition of “centrally assessed property” to fully implement the exemption in Section 196.183, F. S., for this property consistent with procedures for assessments of such property to be certified to the property appraiser by the Department of Revenue as required by Section 193.085, F.S.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in

the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rule 12D-2.001, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-5, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 12D-5.004 AND CREATING RULE 12D-5.014, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed amendment to Rule 12D-5.004, F.A.C., is to include a factor for classification of agricultural lands and to revise the title of the rule.

The proposed creation of Rule 12D-5.014, F.A.C., is to implement an application to be filed with the property appraiser for a conservation easement assessment and a short form to annually reapply.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendment to Rule 12D-5.004, F.A.C. (Applicability of Other Factors to Classification of Agricultural Lands), is to implement an additional factor, added by Chapter 2008-197, Laws of Florida, for the property appraiser to use to determine the use of land for agricultural purposes. This change complies with the amendment to Section 193.461, F.S.

The purpose of the proposed Rule 12D-5.014, F.A.C. (Conservation Easement, Environmentally Endangered or Outdoor Recreational or Park Property Assessed Under Section 193.501, F.S.), is to implement provisions of Chapter 2009-157, L.O.F., amending Section 193.501, F.S. This rule implements an application to be filed with the property appraiser for a

conservation easement assessment and a short form to annually reapply.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. Comments were received on Rule 12D-5.004, F.A.C. The Department amended the title of the Rule. No comments were received on Rule 12D-5.014, F.A.C.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-5.004 and 12D-5.014, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to

county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. Additional comments were received at the hearing on Rule 12D-5.004, F.A.C., about a change in title of the rule. The Department changed the title of the rule and posted for comment. No further comments were received. No public comments were received on Rule 12D-5.014, F.A.C.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
AMENDING OR CREATING RULES 12D-7.0055, 12D-7.006, 12D-7.013, 12D-7.0142,
12D-7.0143, 12D-7.019, AND 12D-7.020

SUMMARY OF PROPOSED RULES

The proposed creation of Rule 12D-7.0055, F.A.C., implements an additional homestead exemption for active duty servicemembers deployed outside the continental US, Alaska, or Hawaii in support of a designated operation.

The proposed amendment to Rule 12D-7.006, F.A.C., implements legislation that allows an optometrist to be one of the practitioners to certify blindness to qualify a person for an exemption.

The proposed amendment to Rule 12D-7.013, F.A.C., implements a statutory condition that constitutes an abandonment of homestead property for homestead exemption purposes.

The proposed creation of Rule 12D-7.0142, F.A.C., provides an additional \$25,000 exemption for qualified homesteads.

The proposed amendment to Rule 12D-7.0143, F.A.C., updates the homestead exemption amount to \$50,000 for persons 65 and older whose annual income does not exceed \$20,000.

The proposed Rule 12D-7.019, F.A.C., is created to explain the tangible personal property exemption and the procedure to apply for and receive the exemption.

The proposed Rule 12D-7.020, F.A.C., is created to identify the exemption for real

property dedicated in perpetuity for conservation and incorporate the form DR-418C, Real Property Dedicated in Perpetuity for Conservation-Exemption Application.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of proposed Rule 12D-7.0055, F.A.C. (Exemption for Deployed Servicemembers), is to implement the provisions of Chapter 2011-93, Laws of Florida, replacing Emergency Rule 12DER11-12. This proposed Rule implements an additional homestead exemption for active duty servicemembers deployed outside the continental United States, Alaska, or Hawaii in support of a designated operation.

The purpose of the amended Rule 12D-7.006, F.A.C. (Exemption for Totally and Permanently Disabled Persons), is to implement the provisions of Chapter 2007-121, L.O.F., which allows for a second form from an optometrist to be used for blind persons to show evidence of entitlement to the exemption.

The purpose of amending Rule 12D-7.013, F.A.C. (Homestead Exemptions – Abandonment), is to implement the provisions of Chapter 2010-176, L.O.F., containing an additional condition that constitutes an abandonment of homestead property for homestead exemption purposes.

The purpose of proposed Rule 12D-7.0142, F.A.C. (Additional Homestead Exemption), is to implement the provisions of Chapter 2008-173, L.O.F., replacing Emergency Rule 12DER11-08. This proposed rule will provide for the additional homestead exemption.

The purpose of amending Rule 12D-7.0143, F.A.C. (Additional Homestead Exemption Up To \$50,000 for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year), is to implement the provisions of Chapter 2007-4, L.O.F., to reflect the exemption

amount and form number for an earnings statement.

The purpose of proposed Rule 12D-7.019, F.A.C. (Tangible Personal Property Exemption), is to implement the provisions of Chapter 2008-173, L.O.F., replacing Emergency Rule 12DER11-07. This proposed rule will implement the tangible personal property exemption and the procedure to apply for and receive the exemption.

The purpose of proposed Rule 12D-7.020, F.A.C. (Exemption for Real Property Dedicated in Perpetuity for Conservation), is to implement the provisions of Chapter 2009-157, L.O.F. This proposed Rule implements an additional exemption for real property dedicated in perpetuity for conservation.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March

20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-7.0055, 12D-7.006, 12D-7.013, 12D-7.0142, 12D-7.0143, 12D-7.019 and 12D-7.020, F.A.C.

SUMMARY OF RULE HEARING

HELD MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407.) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

In response to comments provided by the Joint Administrative Procedures Committee, dated April 27, 2012, a Notice of Change was published in the Florida Administrative Weekly on May 25, 2012 for proposed Rules 12D-7.0055 and 12D-7.019. Rule 12D-7.0055(2)(c) changed language from “the property appraiser may request” to “the property appraiser has the authority.”

Technical changes were also made in the rule for grammatical corrections. The word “must” was changed to “will” in subsections (1), (1)(c), (4), (5), (6) and (8). No further comments have been received on these changes. In Rule 12D-7.019(4)(b), an example was improved to provide better explanation of “the site where the owner of tangible personal property transacts business.” No further comments were received since publishing the Notice of Change.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 12D-8.0061 AND CREATING RULES 12D-8.00659
AND 12D-8.022, F.A.C.

SUMMARY OF PROPOSED RULES

The amendment of Rule 12D-8.0061, F.A.C., implements the additional criteria that apply to a change of ownership in Section 193.155, F. S.

Creation of Rule 12D-8.00659, F.A.C., implements instructions to property owners for the procedures and criteria to inform the property appraiser about any change of ownership or control for non-homestead real property.

Creation of Rule 12D-8.022, F.A.C., creates a report to be completed by fiscally constrained counties to apply for the funds distributed by the legislature.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the amendment to Rule 12D-8.0061(2), F.A.C., is to implement the provisions of Chapter 2010-109, Laws of Florida, to implement the additional criteria that apply to a change of ownership in Section 193.155, F. S.

The purpose of proposed Rule 12D-8.00659, F.A.C., is to implement the provisions of Chapters 2008-173 and 2010-109, L.O.F., that created Sections 193.1554, 193.1555, and

193.1556, F.S. The proposed rule implements instructions to property owners for the procedures and criteria to inform the property appraiser about any change of ownership or control for non-homestead real property.

The purpose of proposed Rule 12D-8.022, F.A.C., is to implement the provisions of Ch. 2008-173, L.O.F., replacing Emergency Rule 12DER11-09. This proposed rule implements Section 218.12 F.S., with procedures for fiscally constrained counties to apply for the funds to offset reductions in ad valorem tax revenue.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-8.0061, 12D-8.00659, and 12D-8.022, F.A.C.

SUMMARY OF RULE HEARING

HELD MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

In response to comments provided by the Joint Administrative Procedures Committee on May 3, 2012 for Rule 12D-8.00659(7)(b), a Notice of Change was published on May 18, 2012 to remove a second form incorporation reference in the rule for form DR-430M. No comments were received from the public.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-9.015 AND 12D-9.036, F.A.C.

SUMMARY OF PROPOSED RULES

The amendment to Rule 12D-9.015, F.A.C., updates the deferral process for tax collectors to notify taxpayers of eligibility for deferrals and provides an appeal procedure to the value adjustment board in cases where the deferral is denied.

The amendment to Rule 12D-9.036, F.A.C., implements a consistent process for denials of tax deferrals of taxes and assessments for homestead property, affordable housing property and working waterfront property.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the amendment to Rule 12D-9.015, F.A.C., is to implement the provisions of Chapter 2011-151, Laws of Florida, relating to deferrals of taxes and assessments for homestead property, affordable housing property and working waterfront property. The purpose of this rule is to outline the process for tax collectors to notify taxpayers of their determination of eligibility for deferrals and provide an appeal procedure to the value adjustment board in cases where the deferral is denied.

The purpose of the amendment to Rule 12D-9.036, F.A.C., is to implement the provisions

of Ch. 2011-151, Laws of Florida, relating to hearing procedures of denials of deferrals of taxes and assessments for homestead property, affordable housing property and working waterfront property. The effect of this rule is to provide a consistent process for hearings.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-9.015 and 12D-9.036, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on

April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-16.001 AND 12D-16.002, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed amendment to Rule 12D-16.001, F.A.C., implements legislation instructing the Department to discontinue providing paper forms to the counties.

The proposed amendment to Rule 12D-16.002, F.A.C., incorporates amended and new forms into rule.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendment to Rule 12D-16.001, F.A.C., is to conform with changes to Section 195.022, F.S., made by Chapter 2009-67, Laws of Florida, to remove requirements that the Department is to provide paper forms to the counties.

The purpose of the proposed amendment to Rule 12D-16.002, F.A.C., is to implement provisions from Chapters 2007-4, 2007-36, 2007-121, 2008-173, 2009-157, 2010-109, 2011-93, 2011-107, and 2011-151, Laws of Florida, and to implement other technical changes to ad valorem property tax forms used by property appraisers, tax collectors, value adjustment boards, and the general public.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-16.001 and 12D-16.002, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. Comments were received on Form DR-493, Adjustments made to Recorded Selling Prices or Fair Market Value in Arriving at Assessed Value. Comments were reviewed and Department did not make any changes to the form.

In response to comments provided by the Joint Administrative Procedures Committee on May 10, 2012, Notices of Change were published on May 18, June 1, and June 8, 2012 in the Florida Administrative Weekly. The May 18 Notice added a Form DR-501TS in response to section 5 of Chapter 2012-193, L.O.F. The June 1st Notice removes the Form DR-501TS to give the public an opportunity to comment on the form and rule change in a public meeting to be held on August 14, 2012. The June 8th Notice changed the titles to Forms DR-498AR, DR-499AR, and DR-500AR in response to JAPC comment. The revision date on Form DR-501M had changed and the Notice reflects the correct date. A second Notice of Change published on June 8th repeats the removal of Form DR-501TS and will be presented for comment at the August 14th workshop. No public comments have been received on any of the Notices of Change.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-17, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-17.004, 17.005 AND 12D-17.006, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed amendment to Rule 12D-17.004, F.A.C., implements the Truth in Millage (TRIM) forms and instructions on using the forms.

The proposed amendment to Rule 12D-17.005, F.A.C., adds the consequence of forfeiting the half-cent sales tax revenues if the taxing authority is in violation of Subsection 200.065(5), F.S.

The proposed amendment to Rule 12D-17.006, F.A.C., incorporates assistance to taxing authorities that violate Subsection 200.065(5), F.S. and implements remedies to cure the noncompliance.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendment to Rule 12D-17.004, F.A.C., is to implement the provisions of Chapter 2008-173, Laws of Florida, replacing corresponding portions of Emergency Rule 12DER11-11. This proposed amendment will incorporate new Truth in Millage (TRIM) forms for the property appraisers to apply to the TRIM process.

The purpose of the proposed amendment to Rule 12D-17.005, F.A.C., is to implement the

provisions of Chapter 2008-173, L.O.F., to describe circumstances where taxes exceed the maximum total county or municipal ad valorem taxes according to Section 200.065(5), F.S., replacing corresponding portions of Emergency Rule 12DER11-11.

The purpose of the proposed amendment to Rule 12D-17.006, F.A.C. is to implement provisions from Chapter 2008-173, L.O.F., to describe the process of notification of noncompliance when a taxing authority is in violation of Section 200.065(5), F.S., and to incorporate the procedure to be used by the taxing authority when taxes exceed the maximum total county or municipal ad valorem taxes according to Section 200.065(5), F. S., replacing corresponding portions of Emergency Rule 12DER11-11.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March

20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rules 12D-17.004, 12D-17.005 and 12D-17.006, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing.

Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

In response to comments provided by the Joint Administrative Procedures Committee on April 30, 2012, a Notice of Change was published on May 25, 2012 in the Florida Administrative Weekly. Rule 12D-17.004(2)(a) and (b) were amended to add two forms for incorporation and added a subparagraph to incorporate a list of forms. No comments were received from the public.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-18, FLORIDA ADMINISTRATIVE CODE
CREATING RULE 12D-18.012, F.A.C.

SUMMARY OF PROPOSED RULES

The proposed creation of Rule 12D-18.012, F.A.C., is to implement instructions and Form DR-503NA to be reported by tax collectors on non-ad valorem assessments collected on the property tax bills.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed Rule 12D-18.012, F.A.C., is to implement the provisions of Chapter 2008-173, Laws of Florida, replacing Emergency Rule 12DER11-04. The purpose of this rule is to outline the process for tax collectors to compile and provide the non-ad valorem reports to the Department under Section 197.3632(5)(b), F.S. The effect of this rule is to provide a consistent process to file these reports.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on July 19 and 20, 2011. These dates were published in the Florida Administrative Weekly on July 1, 2011; see Volume 37, Number 26, pp. 1785-1792. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on this rule.

SUMMARY OF PUBLIC HEARING

HELD ON MARCH 20, 2012

The Governor and Cabinet, sitting as head of the Department of Revenue, met on March 20, 2012, and approved the publication of the Notice of Proposed Rule for the amendment of Rule 12D-18.012, F.A.C.

SUMMARY OF RULE HEARING

HELD ON MAY 1, 2012

A notice for a public hearing was published in the Florida Administrative Weekly on April 6, 2012 (Vol. 38, No. 14, pp. 1384-1407) and held May 1, 2012. An email was sent to county property appraisers, tax collectors, county clerks, board of county commissioners and interested parties on April 10, 2012 about the notice of proposed rule and public hearing. Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received during or since the hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
AMENDING RULE 12D-1.009

12D-1.009 Mapping Requirements.

(1) Each county property appraiser shall have and maintain the following:

(a) Aerial photography suitable for the needs of his office.

(b) Property ownership maps which will reflect the following:

1. through 2. - No change.

3. Parcel number corresponding to that as listed on the current county tax roll (~~normally the last four digits of the property identification number~~).

(2) Suggested procedures for establishing and maintaining an adequate cadastral mapping program to meet these requirements are contained in the mapping guidelines of the Department of Revenue's Manual of Instructions.

Rulemaking Authority 193.085(2), 195.027(1), 213.06(1) FS. Law Implemented 195.022, 195.062 FS. History-New 10-12-76, Formerly 12D-1.09, Amended _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
AMENDING RULE 12D-1.010

12D-1.010 Reconciliation of Interim Tax Rolls – Form of Notification.

(1) through (14) - No change.

(15) Forms, as required by this rule, shall be reproduced ~~ordered~~ by the property appraiser or tax collector ~~from the Department. Provided, However however, that~~ for good cause shown as provided in Rule 12D-16.001(5), F.A.C., the Department shall ~~may~~ approve a change in the format or content of any form required by this rule. ~~The Department shall furnish the forms required by this rule within a reasonable period of time.~~

(16) through (19) - No change.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 193.1145, 193.122, 197.162, 197.172, 197.322, 197.333, 197.343, 197.344, 197.432, 197.443 FS. History—New 11-23-83, Amended 12-26-85, Formerly 12D-1.10, Amended 12-3-01, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-2, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT OF THE PROPERTY OF RAILROADS, RAILROAD TERMINAL
COMPANIES, PRIVATE CAR, FREIGHT LINE AND EQUIPMENT COMPANIES BY THE
DEPARTMENT OF REVENUE
AMENDING RULE 12D-2.001

12D-2.001 Definitions.

(1) through (10) - No change.

(11) Centrally Assessed Property – All railroad operating property subject to assessment according to Section 193.085(4)(a), F.S., and rolling stock of private car and freight line and equipment companies subject to assessment by the department under Section 193.085(4)(b), F.S.

Rulemaking Authority 193.085(4), 195.027(1), 213.06(1) FS. Law Implemented 193.085, 195.073, 196.183 FS. History—New 11-9-76, Formerly 12D-2.01, Amended 12-31-98,

_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-5, FLORIDA ADMINISTRATIVE CODE
AGRICULTURAL AND OUTDOOR RECREATIONAL OR PARK LANDS
AMENDING RULE 12D-5.004

12D-5.004 Applicability of Other Factors that May Become Applicable to Classification of Agricultural Lands.

(1) through (2) - No Change

(3) A minimum acreage cannot be required for agricultural assessment in determining whether the use of the land for agricultural purposes is bona fide.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 193.461, 213.05 FS.

History--New 10-12-76, Amended 11-10-77, Formerly 12D-5.04, Amended _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-5, FLORIDA ADMINISTRATIVE CODE
AGRICULTURAL AND OUTDOOR RECREATIONAL OR PARK LANDS
CREATING RULE 12D-5.014

12D-5.014 Conservation Easement, Environmentally Endangered or Outdoor Recreational or Park Property Assessed Under Section 193.501, F.S.

(1) To apply for the assessment of lands subject to a conservation easement, environmentally endangered lands, or lands used for outdoor recreational or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted, a property owner must submit an original application to the property appraiser by March 1, as outlined in Section 193.501, F.S.

(2) The Department prescribes Form DR-482C, Land Used for Conservation, Assessment Application, and incorporated by reference in Rule 12D-16.002, F.A.C., for property owners to apply for the assessment in Section 193.501, F.S.

(3) The Department prescribes Form DR-482CR, Land Used for Conservation, Assessment Reapplication, incorporated by reference in Rule 12D-16.002, F.A.C., for property owners to reapply for the assessment after the first year a property is assessed under Section 193.501, F. S., when the property owner and use have not changed. The property owner must complete and return the reapplication to the property appraiser by March 1.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 193.501, 213.05 FS. History-
New_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING RULE 12D-7.0055

12D-7.0055 Exemption for Deployed Servicemembers.

(1) This rule applies to the exemption provided in Section 196.173, F.S., for servicemembers who receive a homestead exemption and who were deployed during the previous tax year. For the purposes of this rule the following definitions will apply:

(a) "Servicemember" means a member or former member of

1. Any branch of the United States military or military reserves,
2. The United States Coast Guard or its reserves, or
3. The Florida National Guard.

(b) "Deployed" means:

1. On active duty,
2. Outside of the continental United States, Alaska or Hawaii, and
3. In support of a designated operation.

(c) "Designated Operation" means an operation designated by the Florida Legislature. The Department will annually provide all property appraisers with a list of operations which have been designated.

(2)(a) Application for this exemption must be made by March 1 of the year following the qualifying deployment. If the servicemember fails to make a timely application for this exemption, the property appraiser may grant the exemption on a late application if they believe circumstances warrant that it be granted. The servicemember may also petition the value adjustment board to accept the late application no later than 25 days after the mailing of the notice provided under Section 194.011(1), F.S.

(b) Application for this exemption must be made on Form DR-501M, Deployed Military Exemption Application (incorporated by reference in Rule 12D-16.002, F.A.C.).

(c) In addition to the application, the servicemember must submit to the property appraiser deployment orders or other proof of the qualifying deployment which includes the dates of that deployment and other information necessary to verify eligibility for this exemption. If the servicemember fails to include this documentation with the application, the property appraiser has the authority to request the needed documentation from the servicemember before denying the exemption.

(d) Application for this exemption may be made by:

1. The servicemember,
2. The servicemember's spouse, if the homestead is held by the entireties or jointly with right of survivorship,
3. A person holding a power of attorney or other authorization under Chapter 709, F.S., or
4. The personal representative of the servicemember's estate.

(3) After receiving an application for this exemption, the property appraiser must consider the application within 30 days of its receipt or within 30 days of the notice of qualifying

deployment, whichever is later. If the application is denied in whole or in part, the property appraiser must send a notice of disapproval to the taxpayer no later than July 1, citing the reason for the disapproval. The notice of disapproval must also advise the taxpayer of the right to appeal the decision to the value adjustment board.

(4) This exemption will apply only to the portion of the property which is the homestead of the deployed servicemember or servicemembers.

(5) The percentage exempt under this exemption will be calculated as the number of days the servicemember was deployed during the previous calendar year divided by the number of days in that year multiplied by 100.

(6) If the homestead property is owned by joint tenants with a right of survivorship or tenants by the entirety, the property may be granted multiple exemptions for deployed servicemembers. The following provisions will apply in the event that multiple servicemembers are applying for the exemption on the same homestead property:

(a) Each servicemember must make a separate application to the property appraiser listing the dates of their deployment.

(b) The property appraiser must separately calculate the exemption percentage for each servicemember.

(c) The property appraiser must then add the percentages exempt which were determined for each of the servicemembers who are joint tenants with rights of survivorship or tenants by the entirety before applying that percentage to the taxable value. In no event must the percentage exempt exceed 100%.

(7) When calculating exemptions and taxes due, the property appraiser must first apply the exemptions listed in Section 196.031(7), F.S., in the order specified, to produce school and

county taxable values. The percentage exempt calculated under this exemption must then be applied to both taxable values producing final taxable values. The taxes due must then be calculated and the percentage discount for disabled veterans under Section 196.082, F.S., should then be applied.

(8) If the property is owned by either tenants in common or joint tenants without right of survivorship, the percentage discount allowed under this rule will only apply to the taxable value of the qualifying servicemembers' interest in the property.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 196.001, 196.031, 196.082, 196.173, 213.05 FS. History--New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
AMENDING RULE 12D-7.006

12D-7.006 Exemption for Totally and Permanently Disabled Persons.

(1) through (3) - No change.

(4) Subject to the income limitations pursuant to Section 196.101, F.S. Florida Statutes, and ~~Form DR-501S, (incorporated by reference in Rule 12D-16.002, F.A.C.)~~ the homestead property of a paraplegic, hemiplegic, or any other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind is exempt from ad valorem taxation.

(5) To provide evidence of entitlement to the exemption, a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair, or a person who is legally blind must provide the following ~~furnish~~ to the property appraiser; ~~the following~~:

(a) 1. A certificate of disability, Form DR-416 (incorporated by reference in Rule 12D-16.002, F.A.C.), from two doctors of this state licensed under Chapter 458 or Chapter 459, F.S. Florida Statutes; or

2. ~~(b)~~ A certificate of disability from the United States Department of Veterans Affairs or its predecessor; or ~~and~~

3. For blind persons, a certificate of disability, Form DR-416, from one doctor of this state licensed under Chapter 458 or 459, F.S., and a certificate of disability, Form DR-416B (incorporated by reference in Rule 12D-16.002, F.A.C.), from one optometrist licensed in this

state under Chapter 463, F.S.; and

(b)(e) A Statement of Gross Income, Form DR-501A (incorporated by reference in Rule 12D-16.002, F.A.C.).

(6) through (8) - No change.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 196.011, 196.012, 196.101, 213.05 FS. History—New 10-12-76, Formerly 12D-7.06, Amended 12-27-94,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
AMENDING 12D-7.013

12D-7.013 Homestead Exemptions – Abandonment.

(1) through (5) - No Change.

(6) Homestead property that is uninhabitable due to damage or destruction by misfortune or calamity shall not be considered abandoned in accordance with the provisions of Section 196.031(~~6~~7), F.S., where:

(a) The property owner notifies the property appraiser of his or her intent to repair or rebuild the property,

(b) The property owner notifies the property appraisers of his or her intent to occupy the property after the property is repaired or rebuilt,

(c) The property owner does not claim homestead exemption elsewhere, and

(d) The property owner commences the repair or rebuilding of the property within three (3) years after January 1 following the damage or destruction to the property.

(7) After the three (3) year period, the expiration, lapse, nonrenewal, or revocation of a building permit issued to the property owner for such repairs or rebuilding also constitutes abandonment of the property as homestead.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 196.001, 196.031,

*196.041, 196.061, 196.071, 213.05 FS. History–New 10-12-76, Formerly 12D-7.13, Amended
10-2-07,_____.*

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING 12D-7.0142

12D-7.0142 Additional Homestead Exemption.

(1) A taxpayer who receives the \$25,000 homestead exemption may claim the additional homestead exemption of up to \$25,000 on the assessed value greater than \$50,000.

(2) To apply for the additional homestead exemption, no new application form is needed. Form DR-501, (incorporated by reference in Rule 12D-16.002, F.A.C.), will be considered the application for exemption.

(3) The additional homestead exemption applies only to non-school levies.

Rulemaking Authority 195.027(1), 213.06(1), Law Implemented 193.114, 196.031, 196.075, 196.082, 196.196, 196.24, FS. History—New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
AMENDING RULE 12D-7.0143

12D-7.0143 Additional Homestead Exemption Up To \$50,000 ~~\$25,000~~ for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year.

(1) The following procedures shall apply in counties and municipalities that have granted an additional homestead exemption up to \$50,000 ~~\$25,000~~ for persons 65 and older on January 1, whose household adjusted gross income for the prior year does not exceed \$20,000, adjusted beginning January 1, 2001, by the percentage change in the average cost-of-living index.

(2) through (2)(b) – No change.

(c) any wage earning statements for each member of the household, which shall include Forms W-2, RRD-1042S, SSA-1042S, 1099, 1099A ~~1999A~~, RRD 1099, and SSA-1099, if any.

(3) through (5) – No change.

Rulemaking Specific Authority 195.027(1), 196.075(5), 213.06(1) FS. Law Implemented 193.074, 196.075, 213.05 FS. History—New 12-30-99, Amended 12-30-02, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING RULE 12D-7.019

12D-7.019 Tangible Personal Property Exemption.

(1) The filing of a complete Form DR-405, or Form DR-470A (incorporated by reference in Rule 12D-16.002, F.A.C.) shall be considered the application for exemption.

(2) Taxpayers who fail to file complete returns by April 1 or within any applicable extension period, shall not receive the \$25,000 exemption. However, at the option of the property appraiser, owners of property previously assessed without a return being filed may qualify for the exemption without filing an initial return. Nothing in this rule shall preclude a property appraiser from requiring that Form DR-405 be filed. Returns not timely filed shall be subject to the penalties enumerated in Section 193.072, F.S. Claims of more exemptions than allowed under subsection 196.183(1), F.S., are subject to the taxes exempted as a result of wrongfully claiming the additional exemptions plus penalties on these amounts as enumerated in Section 196.183(5), F.S.

(3) Section 196.183(1), F.S., states that a single return must be filed, and therefore a single exemption granted, for all freestanding equipment not located at the place where the owner of tangible personal property transacts business.

(4) “Site where the owner of tangible personal property transacts business”.

(a) Section 196.183(2), F.S., defines "site where the owner of tangible personal property transacts business". A "site where the owner of tangible personal property transacts business" includes facilities where the business ships or receives goods, employees of the business are located, goods or equipment of the business are stored, or goods or services of the business are produced, manufactured, or developed, or similar facilities located in offices, stores, warehouses, plants, or other locations of the business. Sites where only the freestanding property of the owner is located shall not be considered sites where the owner of tangible personal property transacts business.

(b) Example: A business owns copying machines or other freestanding equipment for lease. The location where the copying machines are leased or where the freestanding equipment of the owner is placed does not constitute a site where the owner of the equipment transacts business. If it is not a site where one or more of the activities stated in subsection (a) occur, for purposes of the tangible personal property exemption, it is not considered a site where the owner transacts business.

(5) Property Appraiser Actions - Maintaining Assessment Roll Entry.

(a) For all freestanding equipment not located at a site where the owner of tangible personal property transacts business, and for which a single return is required, and for property assessed under Section 193.085, F.S., the property appraiser is responsible for allocating the exemption to those taxing jurisdictions in which freestanding equipment or property assessed under Section 193.085, F.S. is located. Allocation should be based on the proportionate share of the just value of such property in each jurisdiction. However, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll under Section 193.122, F.S.

(6) By February 1 of each year, the property appraiser shall notify by mail all taxpayers whose requirement for filing an annual tangible personal property tax return was waived in the previous year. The notification shall state that a return must be filed if the value of the taxpayer's tangible personal property exceeds the exemption and shall include notification of the penalties for failure to file such a return. Form DR-405W, (incorporated by reference in Rule 12D-16.002, F.A.C.), may be used by property appraisers at their option.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.047, 193.063, 193.072, 193.114, 193.122, 196.183, 213.05 FS. History--New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING RULE 12D-7.020

12D-7.020 Exemption for Real Property Dedicated in Perpetuity for Conservation.

(1) To apply for the exemption in Section 196.26, F.S., a property owner must submit an original application to the property appraiser by March 1, as outlined in Section 196.011, F.S.

(2) The Department prescribes Form DR-418C, Real Property Dedicated in Perpetuity for Conservation, Exemption Application, incorporated by reference in Rule 12D-16.002, F.A.C. Property owners must use this form to apply for the exemption in Section 196.26, F.S.

(3) The Department prescribes Form DR-418CR, Real Property Dedicated in Perpetuity for Conservation, Exemption Renewal, incorporated by reference in Rule 12D-16.002, F.A.C. After the first year a property receives the exemption in Section 196.26, F.S., the property appraiser must mail a renewal application to the property owner by February 1. The property owner must complete and return the renewal application to the property appraiser by March 1.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 196.011, 196.26, 213.05 FS.

History-New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
AMENDING RULE 12D-8.0061

12D-8.0061 Assessments; Homestead Property Assessments at Just Value.

(1) No change.

(2) Real property shall be assessed at just value as of January 1 of the year following any change of ownership. If the change of ownership occurs on January 1, subsection (1) shall apply. For purposes of this section, a change of ownership includes any transfer of homestead property receiving the exemption, but does not include any of the following:

(a) Any transfer in which the person who receives homestead exemption is the same person who was entitled to receive homestead exemption on that property before the transfer, and

1. No change.

2. The transfer is between legal and equitable title or equitable and equitable title and no other person applies for a homestead exemption on the property; or

3. No change.

(b) No change.

(c) No change.

(d) The transfer occurs by operation of law to the surviving spouse or minor child or children under Section ~~section~~ 732.401 732.4015, F.S. Florida Statutes.

(3) A leasehold interest that qualifies for the homestead exemption under Sections 196.031 or

196.041, F.S., shall be treated as an equitable interest in the property for purposes of subsection (2).

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 193.011, 193.023, 193.155, 213.05 FS. History—New 12-27-94, Amended 10-2-07,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
CREATING RULE 12D-8.00659

12D-8.00659 Notice of Change of Ownership or Control of Non-Homestead Property.

(1) Any person or entity that owns non-homestead property that is entitled to receive the 10 percent assessment increase limitation under Section 193.1554 or 193.1555, F.S., must notify the property appraiser of the county where the property is located of any change of ownership or control as defined in Sections 193.1554(5) and 193.1555(5), F.S. This notification is not required if a deed or other instrument of title has been recorded in the county where the parcel is located.

(2) As provided in Sections 193.1554(5) and 193.1555(5), F.S., a change of ownership or control means any sale, foreclosure, transfer of legal title or beneficial title in equity to any person, or the cumulative transfer of control or of more than fifty (50) percent of the ownership of the legal entity that owned the property when it was most recently assessed at just value.

(3) For purposes of a transfer of control, “controlling ownership rights” means voting capital stock or other ownership interest that legally carries voting rights or the right to participate in management and control of the legal entity’s activities. The term also includes an ownership interest in property owned by a limited liability company or limited partnership that is treated as owned by its sole member or sole general partner.

(4)(a) A cumulative transfer of control of the legal entity that owns the property happens when any of the following occur:

1. The ownership of the controlling ownership rights changes and either:

a. A shareholder or other owner that did not own more than fifty (50) percent of the controlling ownership rights becomes an owner of more than fifty (50) percent of the controlling ownership rights; or

b. A shareholder or other owner that owned more than fifty (50) percent of the controlling ownership rights becomes an owner of less than fifty (50) percent of the controlling ownership rights.

2.a. There is a change of all general partners; or

b. Among all general partners the ownership of the controlling ownership rights changes as described in subparagraph 1. above.

(b) If the articles of incorporation and bylaws or other governing organizational documents of a legal entity require a two-thirds majority or other supermajority vote of the voting shareholders or other owners to approve a decision, the supermajority shall be used instead of the fifty (50) percent for purposes of paragraph (a) above.

(5) There is no change of ownership if:

(a) The transfer of title is to correct an error;

(b) The transfer is between legal and equitable title; or

(c) For "non-homestead residential property" as defined in Section 193.1554(1), F.S., the transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage. This paragraph does not apply to non-residential property that is subject to Section 193.1555, F.S.

(6) For a publicly traded company, there is no change of ownership or control if the cumulative transfer of more than 50 percent of the ownership of the entity that owns the property occurs through the buying and selling of shares of the company on a public exchange. This exception does not apply to a transfer made through a merger with or an acquisition by another company, including an acquisition by acquiring outstanding shares of the company.

(7)(a) For changes of ownership or control, as referenced in subsection (2) of this rule, the owner must complete and send Form DR-430, Change of Ownership or Control, Non-Homestead Property, to the property appraiser unless a deed or other instrument of title has been recorded in the county where the parcel is located. This form is adopted by the Department of Revenue and incorporated by reference in Rule 12D-16.002, F.A.C. If one owner completes and sends a Form DR-430 to the property appraiser, another owner is not required to send an additional Form DR-430.

(b) Form DR-430M, Change of Ownership or Control, Multiple Parcels, which is incorporated by reference in Rule 12D-16.002, F.A.C., may be used as an attachment to Form DR-430. A property owner may use DR-430M to list all property owned or controlled in the state for which a change of ownership or control has occurred. A copy of the form should be sent to each county property appraiser where a parcel is located.

(c) On January 1, property assessed under Sections 193.1554 and 193.1555, F.S., must be assessed at just value if the property has had a change of ownership or control since the January 1 when the property was most recently assessed at just value.

(d) The property appraiser is required to record a tax lien on any property owned by a person or entity that was granted, but not entitled to, the property assessment limitation under Sections 193.1554 or 193.1555, F.S.

(e) The property appraiser shall use the information provided on the Form DR-430 to assess property as provided in Sections 193.1554, 193.1555, and 193.1556, F.S. For listing ownership on the assessment rolls, the property appraiser must not use Form DR-430 as a substitute for a deed or other instrument of title in the public records.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 193.1554, 193.1555, 193.1556, FS. History –New-_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
CREATING RULE 12D-8.022

12D-8.022 Reporting of Fiscal Data by Fiscally Constrained Counties to the Department of Revenue.

(1) This rule applies to counties that meet the fiscally constrained definition in Section 218.67(1), F.S. Under Sections 218.12 and 218.125, F.S., these counties are required to apply for a distribution of funds appropriated by the Legislature for each of the following purposes:

(a) Offsetting reductions in property tax revenues occurring as a direct result of the implementation of revisions to Article VII, Florida Constitution approved in the special election held on January 29, 2008. These reductions include the additional \$25,000 homestead exemption, the \$25,000 tangible personal property exemption, homestead assessment difference transferability, and the 10 percent assessment increase limitation on nonhomestead property.

(b) Offsetting reductions in property tax revenues occurring as a direct result of the implementation of revisions to ss. 3(f) and 4(b) of Art. VII, Florida Constitution, approved in the general election held in November 2008. These reductions include the exemption for real property dedicated in perpetuity for conservation purposes and classified use assessments for land used for conservation purposes.

(2) An application must be filed with the Department of Revenue on Form DR-420FC,

incorporated by reference in Rule 12D-16.002, F.A.C.

(3) Each fiscally constrained county must provide the completed form to the Department of Revenue by November 15 each year. The form must be prepared by the county property appraiser. The following is a summary of the information required on the form:

(a) An estimate of the reduction in taxable value for all county government taxing jurisdictions directly attributable to revisions to Article VII, Florida Constitution approved in the special election held on January 29, 2008. This estimate must be based on values comparable to those certified on Form DR-420, incorporated by reference in Rule 12D-16.002, F.A.C.;

(b) An estimate of the reduction in taxable value for all county government taxing jurisdictions directly attributable to revisions to ss. 3(f) and 4(b) of Art. VII, Florida Constitution, approved in the general election held in November 2008. This estimate must be based on values comparable to those certified on Form DR-420;

(c) Millage rates for all county government taxing jurisdictions as included on the tax roll extended according to Section 193.122, F.S., for all these jurisdictions for both the current and prior year;

(d) Rolled-back rates, if available, for each jurisdiction determined as provided in Section 200.065, F.S., and included on Form DR-420 by each taxing jurisdiction;

(e) Maximum millage rates, if available, for each jurisdiction that could have been levied by a majority vote as included on Form DR-420MM, Maximum Millage Levy Calculation – Final Disclosure, by each taxing jurisdiction. Form DR-420MM is incorporated by reference in Rule 12D-16.002, F.A.C.

(4) The calculation of each distribution of appropriated funds must include both operating and debt service levies, including millages levied for two years or less under Section 9(b),

Article VII, Florida Constitution.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 200.065, 218.12, 218.125,

218.67, FS. History-New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE
VALUE ADJUSTMENT BOARDS
AMENDING RULE 12D-9.015

12D-9.015 Petition; Form and Filing Fee.

(1) through (6) - No change.

(7) Filing Fees. By resolution of the value adjustment board, a petition shall be accompanied by a filing fee to be paid to the board clerk in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal covered by the petition and subject to appeal. The resolution may include arrangements for petitioners to pay filing fees by credit card.

(a) No change.

(b) No filing fee shall be required with respect to an appeal from the disapproval of a timely filed application for homestead exemption or from the denial of a ~~homestead~~ tax deferral.

(c) through (9)(c) No change.

(10) Timely Filing of Petitions. Petitions related to valuation issues may be filed, and must be accepted by the board clerk, at any time during the taxable year on or before the 25th day following the mailing of the notice of proposed property taxes. Other petitions may be filed as follows:

(a) through (d) - No change.

(e) With respect to issues involving the denial of a ~~homestead~~ tax deferral, on or before the 30th day following the mailing of the notification in writing of the denial of the deferral application ~~or on or before the 20th day following receipt of the notification, whichever date is later;~~

(f) through (14) - No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.155, 194.011, 194.013, 194.032, 194.034, 194.036, 194.171, 195.022, 195.084, 196.151, 197.2425, ~~197.253~~, 197.301, ~~197.3041~~, ~~197.3047~~, ~~197.3073~~, ~~197.3079~~, 200.069, 213.05 FS. History-New 3-30-10, Amended _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE
VALUE ADJUSTMENT BOARDS
AMENDING RULE 12D-9.036

12D-9.036 Procedures for Petitions on Denials of Tax Deferrals.

(1) The references in these rules to the tax collector are for the handling of petitions of denials of tax deferrals under Section 197.2425, ~~Sections 197.253, 197.3041, and 197.3073~~, F.S., and petitions of penalties imposed under Section ~~Sections 197.301, 197.3047, and 197.3079~~, F.S.

(2) To the extent possible where the context will permit, such petitions shall be handled procedurally under this rule chapter in the same manner as denials of exemptions.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.036, 197.2425, ~~197.253~~, 197.301, ~~197.3041, 197.3047, 197.3073, 197.3079~~, 213.05 FS. History--New 3-30-10, Amended.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
ADMINISTRATION OF FORMS
AMENDMENT TO RULE 12D-16.001

12D-16.001 Administration of Forms.

(1) The Department shall prescribe all forms and instructions relating to their use, which shall be uniform throughout the state, to be used by county property appraisers, county tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. ~~The Department shall furnish forms for counties with a population of 100,000 or less.~~

~~(2) Counties with a population of more than 100,000 shall reproduce forms for distribution at the county officer's expense.~~

~~(3)(2) The Department shall prescribe one form for each purpose. Each form shall be uniform throughout the state as to size, content, layout dimensions and construction.~~

~~(3) For counties with populations of 100,000 or less, requisitions for forms shall be made to the Department not less than 90 days prior to desired date of delivery. Requisitions for the following forms shall be submitted to the Department on or before August 1 of each year so that the property appraiser can and shall make them available in his or her office on the first working day of the next ensuing calendar year:~~

~~(a) Tangible Personal Property and Inventory Return;~~

- ~~(b) Application for Agricultural Classification of Lands;~~
- ~~(c) Applications for Assessment of Pollution Control Devices;~~
- ~~(d) Applications for Exemptions (original and renewal); and~~
- ~~(e) Applications for classification as High Water Recharge Lands or as Historic Properties Used for Commercial or Certain Nonprofit Purposes.~~

(4) through (5) - No change.

(6) Individual officers may use supplemental forms, produced at their own expense, which they deem expedient for the purpose of administering and collecting ad valorem taxes within their own jurisdictions. Such supplemental forms may be used in conjunction with and not be substituted for, nor used in lieu of, the forms prescribed and furnished by the Department.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 193.052, 195.002, 195.022 FS. History—New 10-12-76, Amended 4-11-80, Formerly 12D-16.01, Amended 1-11-94, 12-27-94, 12-30-04,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
ADMINISTRATION OF FORMS
AMENDING RULE 12D-16.002

12D-16.002 Index to Forms.

(1) The following paragraphs list the forms used ~~utilized~~ by the Department of Revenue. A copy of these forms may be obtained from the Department's website at <http://dor.myflorida.com/dor/>, or by writing to: Director, Property Tax Oversight Program, Department of Revenue, Post Office Box 3000, Tallahassee, Florida 32315-3000. The Department of Revenue adopts, and ~~hereby~~ incorporates by reference in this rule, the following forms and instructions:

	Form Number	Form Title	Effective Date
(2)	DR-401	Private Car and Freight Line Equipment Companies Annual Report <u>and Return</u> to the State of Florida Department of Revenue Property Tax Administration (r. 12/11 <u>12/06</u>)	____ <u>10/07</u>
(3)(a)		No change.	
(b)	DR-403	Tax Roll Certification (r. 6/11 <u>1/04</u>)	____ <u>12/04</u>
(c)	DR-403AC	Revised Recapitulation of the Ad Valorem Assessment Rolls (County Values) (r. 1/04)	<u>12/04</u>
(4)(a)	DR-403AM	Revised Recapitulation of the Ad Valorem Assessment Rolls (Municipality Values) (r. 1/04)	<u>12/04</u>
(b)	DR-403BM	Recapitulation of Taxes as Extended <u>on the</u> _____ Tax Rolls; (Municipalities) (r. 6/11 <u>5/89</u>)	____ <u>5/89</u>
(5)(a)	DR-403CC	Recapitulation of Taxes as Extended <u>on the</u> _____ Tax Rolls; <u>County Commission, School Board, and Taxing Districts</u> (Counties) (r. 6/11 <u>5/89</u>)	____ <u>5/89</u>
(b)	DR-403EB	<u>The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of</u> _____ <u>County, Florida</u> (r. 6/11 <u>4/04</u>)	____ <u>12/04</u>
(6)(a)	DR-403PC	The Value and Number of Parcels on the Real Property <u>Countywide</u> Assessment Roll by Category (r. 06/11 <u>5/85</u>)	____ <u>5/85</u>
(b)	<u>DR-403V</u>	<u>The (tax year) Revised Recapitulation of the Ad Valorem Assessment Roll</u>	

		<u>Value Data (n. 6/11)</u>	
(7)(a)	DR-404PA	Property Appraiser Budget Amendment /Transfer Amendment (r. 3/08)	<u>1/86</u>
(b)	DR-404TC	Tax Collector Budget Amendment/Transfer (r. 3/08 2/97)	<u>12/97</u>
(c)	DR-405	Tangible Personal Property Tax Return (r. 12/11 11/01)	<u>12/01</u>
(d)	<u>DR-405W</u>	<u>Notice to Taxpayer Whose Tangible Personal Property Return was Waived in the Previous Year (n. 12/08)</u>	
(8)(a)	through (b)	No change.	
(9)(a)	DR-409	Certificate of Correction of Tax Roll (r. <u>xx/12</u> 12/05)	<u>1/06</u>
(b)	DR-409A	Certificate of Correction of Non-Ad Valorem Assessment Roll (r. <u>12/96</u> 12/03)	1/04
(c)	DR-410	Application for Certified Florida Collector or Certified Florida Collector Assistant (r. <u>3/08</u> 12/96)	<u>12/97</u>
(10)(a)	DR-412	Notice of Intent (r. 12/92)	12/92
(11)(b)	DR-413	Affidavit of Proof of Publication (n. 2/91)	2/91
(11)	DR-415	Application for Department of Revenue Approved Bidder's List (r. 7/97)	12/97
(12)(a)	DR-416	Physician's Certification of Total and Permanent Disability (r. <u>xx/12</u> 12/94)	<u>12/94</u>
(b)	<u>DR-416B</u>	<u>Optometrist's Certification of Total and Permanent Disability (r. xx/12)</u>	
(13)(a)		No change.	
(b)	<u>DR-418C</u>	<u>Real Property Dedicated in Perpetuity for Conservation. Exemption Application (n. xx/12)</u>	
(c)	<u>DR-418CR</u>	<u>Real Property Dedicated in Perpetuity for Conservation. Exemption Renewal (n. 11/10)</u>	
(d)(b)	DR-418E	Enterprise Zone Ad Valorem Property Tax Exemption – Child Care Facility Application For Exemption Certification (n. 12/99)	1/00
(14)(a)(e)	DR-420	Certification of Taxable Value (r. <u>xx/12</u> 4/95)	<u>12/94</u>
(b)	<u>DR-420DEBT</u>	<u>Certification of Voted Debt Millage (r. 6/10)</u>	
(c)	<u>DR-420FC</u>	<u>Distribution to Fiscally Constrained Counties Application (r. 8/10)</u>	
(d)	<u>DR-420MM</u>	<u>Maximum Millage Levy Calculation, Final Disclosure (r. xx/12)</u>	
(e)	<u>DR-420MM-P</u>	<u>Maximum Millage Levy Calculation, Preliminary Disclosure (r. xx/12)</u>	
(f)(d)	DR-420S	Certification of School Taxable Value (r. <u>5/11</u> 4/03)	<u>1/03</u>
(g)	<u>DR-420TIF</u>	<u>Tax Increment Adjustment Worksheet (r. 6/10)</u>	
(15)(14)(a)	DR-421	Certification for Taxing Authorities That Do Not Levy Ad Valorem Taxes (r. <u>xx/12</u>)	<u>7/93</u>
(b)	DR-422	Certification of Final Taxable Value (r. <u>5/11</u> 4/03)	<u>1/03</u>
(c)	<u>DR-422DEBT</u>	<u>Certification of Final Voted Debt Millage (r. 5/11)</u>	
(d)	<u>DR-428B</u>	<u>Maximum Millage Calculation, General Information for Fiscal Year 2009-10 and Thereafter (r. 5/11)</u>	
(e)	<u>DR-430</u>	<u>Change of Ownership or Control Non-Homestead Property (n. xx/12)</u>	
(f)	<u>DR-430M</u>	<u>Change of Ownership or Control, Multiple Parcels (n. xx/12)</u>	
(g)	<u>DR-431</u>	<u>Voluntary Disclosure of Property (r. xx/12)</u>	
(16)(15)	DR-452	Form for Return of Real Property in Attempt to Establish Adverse Possession Without Color of Title (r. <u>2/12</u> 8/93)	<u>12/94</u>
(17)(16)(a)	DR-453	Notice of Tax Lien for Homestead Exemption and/or Limitation Exclusion (r. 12/05)	1/06

(b) through	(c)	No change.	
(18) (17)	DR-456	Notice of New, Rebuilt, or Expanded Property	9/84
(19) (18)	DR-462	Application for Refund of Ad Valorem Taxes (r. 12/11 <u>12/02</u>)	<u>1/03</u>
(19)	Reserved		
(20) (a)	DR-470	Railroad Tax Return (r. 5/93)	5/93
(b)	DR-470A	<u>Annual Report of Railroad Company Annual Report and Return to the State of Florida (r. 12/11 <u>1/95</u>)</u>	<u>12/95</u>
(21)(a)		No change.	
(b)	DR-474	Notice of Proposed Property Taxes (r. xx/12 <u>12/04</u>)	<u>12/04</u>
(c)	DR-474M	Amended Notice of Proposed Property Taxes (r. xx/12 <u>8/95</u>)	<u>12/95</u>
(d)	DR-474N	Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments (r. xx/12 <u>12/04</u>)	<u>12/04</u>
(22) through	(23)(a)	No change.	
(23) (b)	DR-482C	Land Used for Conservation, Assessment Application (r. xx/12)	_____
(c)	DR-482CR	Land Used for Conservation, Assessment Reapplication (r. xx/12)	_____
(d) (b)	DR-482HW	Application and Return for High-Water Recharge Classification of Lands (n. 12/99)	1/00
(e) (e)	DR-482HP	Application and Return for Classification/Exemption of Property as Historic Property Used for Commercial or Certain Nonprofit Purposes (r. 12/04)	12/04
(f) (d)	DR-483	Request for Extension of the Time for Completion of Assessment Roll(s)	8/89
(24)	DR-484	Budget Form for <u>Property</u> Appraisers (r. xx/12 n. 2/90)	<u>2/90</u>
(25)		485 Series:	
(a)	DR-485M	Notice of Decision of the Value Adjustment Board (r. xx/12 n. 12/09)	<u>3/10</u>
(b)		No change.	
(c)	DR-485V	Decision of The Value Adjustment Board – Value Petition (r. xx/12 n. 12/09)	<u>3/10</u>
(d)	DR-485WCN	Value Adjustment Board – Clerk’s Notice (r. xx/12)(n. 12/09)	<u>3/10</u>
(e)		No change.	
(f)	DR-485XC	Decision of The Value Adjustment Board – Exemption, Classification, or Assessment Difference Transfer Petition (r. xx/12 n. 12/09)	<u>3/10</u>
(26)		486 Series:	
(a)		No change.	
(b)	DR-486DP	Petition to The Value Adjustment Board – Tax Deferral or Penalties – Request for Hearing (r. xx/12 <u>12/09</u>)	<u>3/10</u>
(c) through	(d)	No change.	
(e)	DR-487	Certification of Compliance (r. 5/11 <u>12/99</u>)	<u>12/96</u>
(f)	DR-487V	Vote Record for Final Adoption of Millage Levy (r. 6/10)	_____
(27)(a)	through (b)	No change.	
(28)	DR-489	Tax Roll Certification (r. 6/11 <u>3/84</u>)	<u>3/84</u>
(29)(a)	DR-489AC	Preliminary Recapitulation of Ad Valorem Assessment Rolls—County (r. 1/04)	12/04
(b)	DR-489AM	Preliminary Recapitulation of Ad Valorem Assessment Rolls—Municipality (r. 1/04)	12/04
(e)	DR-489EB	<u>The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida (r. 6/11 <u>1/04</u>)</u>	<u>12/04</u>
(b) (d)	DR-489PC	The Value and Number of Parcels on the Real	

		Property <u>Countywide Assessment Roll by Category (r. 6/11 5/85)</u>	_____ 5/85
(c)	<u>DR-489V</u>	<u>The (tax year) Preliminary Recapitulation of the Ad Valorem Assessment Roll, Value Data (n. 6/11)</u>	_____
(30)(a)	DR-490	Notice of Disapproval of Application for Property Tax Exemption or Classification by the County Property Appraiser (r. <u>xx/12 12/09</u>)	_____ 3/10
(b)		No change.	
(31)(a)	DR-492	Return of Pollution Control Devices for Ad Valorem Tax Purposes (r. <u>xx/12 8/83</u>)	_____ 8/83
(b)	DR-493	<u>Adjustments Made to Recorded Selling Prices or Fair Market Value in Arriving at Assessed Value Summary of Adjustments to Tax Roll (r. <u>xx/12 6/92</u>)</u>	_____ 6/92
(32)		No change.	
(33)	DR-498AR	<u>Removal of Total or Partial Exemption [front side of form]; Automatic Renewal of Receipt for Total or Partial Tax Exemption [back side of form] (r. <u>xx/12 1/93</u>)</u>	_____ 1/93
(34)(a)	through (b)	No change.	
(c)	DR-499AR	<u>Removal of Agricultural or High-Water Recharge Classification of Lands [front side of form]; Automatic Renewal of Agricultural Or High-Water Recharge Classification [back side of form] (r. <u>xx/12 1/93</u>)</u>	10/07 _____ 1/93
(d) through (35)		No change.	
(36)	DR-500	Renewal Application for Homestead and Related Tax Exemptions (r. <u>xx/12 1/93</u>)	_____ 1/93
(37)	DR-500AR	<u>Removal of Homestead Exemption(s) [front side of form]; Automatic Renewal of Homestead Exemption [back side of form] Automatic Renewal for Homestead and Related Tax Exemption (r. <u>xx/12 1/93</u>)</u>	_____ 1/93
(38)		No change.	
(39)(a)	DR-501	Original Application for <u>Homestead Ad Valorem and Related Tax Exemptions (r. <u>xx/12 12/06</u>)</u>	_____ 10/07
(b)	DR-501A	Statement of Gross Income (r. <u>xx/12 6/94</u>)	_____ 12/95
(c)	DR-501CC	Ad Valorem Tax Exemption Application Proprietary Continuing Care Facility (r. <u>xx/12 n. 9/98</u>)	_____ 12/98
(d)	<u>DR-501DV</u>	<u>Application for Homestead Tax Discount, Veterans Age 65 and Older with a Combat-Related Disability (n. xx/12)</u>	_____
(e)	<u>DR-501M</u>	<u>Deployed Military Exemption Application (r. 5/12)</u>	_____ (6/11)
	DR-501SC	Sworn Statement of Adjusted Gross Income of Household and Return (12/04)	12/04
(f) (e)	DR-501PGP	Original Application for Assessment Reduction for Living Quarters of Parents or Grandparents (r. <u>xx/12 n. 12/03</u>)	_____ 1/04
(g)	<u>DR-501RVSH</u>	<u>Certificate for Transfer of Homestead Assessment Difference (r. 12/08)</u>	_____
(h)	<u>DR-501SC</u>	<u>Adjusted Gross Household Income Sworn Statement and Return (r. xx/12)</u>	_____
(i)	<u>DR-501T</u>	<u>Transfer of Homestead Assessment Difference, Attachment to Original Application for Homestead Tax Exemption (r. 12/08)</u>	_____
(40)(a)	DR-501S	Eligibility Criteria to Qualify for Property Tax Exemption (r. 12/05)	1/06

(b)	DR-502	Tax Collector's Recapitulation of the Tax Roll (r. 6/85)	6/85
(b) (e)	DR-503	Tax Collector's Recapitulation of the Non-Ad Valorem Assessment Levy (r. 12/05)	1/06
(c)	<u>DR-503NA</u>	<u>Tax Collector's Report on Non-Ad Valorem Assessments Collected on the Notice of Taxes (r. 6/09)</u>	_____
(41)(a)		No change.	
(b)	DR-504S	Affidavit for Ad Valorem Tax Exemption (r. 12/93)	12/94
(e)	DR-504CS	Ad Valorem Tax Exemption Application Charter School Facilities (n. 12/00)	1/01
(c) (d)	DR-504HA	Ad Valorem Tax Exemption Application and Return – Homes for the Aged (n. 11/01)	12/01
(d)	<u>DR-504S</u>	<u>Individual Affidavit for Ad Valorem Tax Exemption-Homes for the Aged (r. xx/12)</u>	_____
(42) through (45)(b)		No change.	
(46)(a)	DR-510	Form for Cancellation or Correction of Tax Sale Certificate (r. 12/11 7/93)	_____ 11/87
(46)(b)	Through (48)(b)	No change.	
(48)(c)	DR-516	Application for Certified Florida Appraiser or Certified Florida Evaluator (r. 3/08 12/96)	_____ 12/97
(d)	<u>DR-516E</u>	<u>Application for Certified Florida Evaluator (r. 3/08)</u>	_____
(e) (d)	DR-517	Tax Collector's Warrant for Collecting Personal Property Taxes (r. 8/95)	12/95
(49) through (51)(a)		No change.	
(b)	DR-528	Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments (example only) (r. xx/12)	_____ 2/91
(c) through (52)(a)		No change.	
(b)	DR-534	Notice and Application for Alternative Payment of 20XX 2005 Property Taxes (r. 12/11 12/04)	_____ 12/04
(53) through (54)		No change.	
(55)	DR-546	Agricultural Income and Information Form (r. xx/12 4/94)	_____ 12/94
(56)(a)	DR-570 Reserved	Application for Homestead Tax Deferral (r. 10/11)	_____
(b)	<u>DR-570AH</u>	<u>Application for Affordable Housing Property Tax Deferral (n. 10/11)</u>	_____
(c)	<u>DR-570WF</u>	<u>Application for Recreational and Commercial Working Waterfronts Property Tax Deferral (r. 10/11)</u>	_____
(57)(a)	DR-571A	Disapproval of Application for Tax Deferral-Homestead, Affordable Rental Housing, or Working Waterfront (r. xx/12) (n. 12/09)	_____ 3/10
(b)	DR-584	<u>Budget Form for Tax Collectors Budget Schedule (r. xx/12 2/94)</u>	_____ 12/94
(e)	DR-585	Minimum Standards Contract (n. 8/77)	8/77
(58)		No change.	
(59)	DR-591	Application for Certified Cadastralist of Florida (r. 3/08) (n. 12/96)	_____ 12/96
(60) through (61)(b)		No change.	

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 92.525, 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.1556, 193.461, 193.501, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 195.095, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.173, 196.183, 196.193, 196.1961, 196.1983, 196.1995, 196.202,

196.24, 196.26, 197.182, 197.222, 197.2423, 197.2425, ~~197.253~~, ~~197.304~~, ~~197.3041~~, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, 213.05, 218.12, 218.125, 218.66, 218.67 FS. History–New 10-12-76, Amended 4-11-80, 9-17-80, 5-17-81, 1-18-82, 4-29-82, Formerly 12D-16.02, Amended 12-26-88, 1-9-92, 12-10-92, 1-11-94, 12-27-94, 12-28-95, 12-25-96, 12-30-97, 12-31-98, 2-3-00, 1-9-01, 12-27-01, 1-20-03, 1-26-04, 12-30-04, 1-16-06, 10-2-07, 3-30-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-17, FLORIDA ADMINISTRATIVE CODE
TRUTH IN MILLAGE (TRIM) COMPLIANCE
AMENDING RULE 12D-17.004

12D-17.004 Taxing Authority's Certification of Compliance; Notification by Department.

(1) If an ordinance or resolution establishing a property tax millage levy is adopted, the taxing authority must file ~~then within 30 days following its adoption the taxing authority shall file with the Department, Form DR-487, Certification of Compliance with Chapter 200, Florida Statutes with the Department within 30 days following the adoption of the levy.~~

(2)(a) For taxing authorities other than school districts, the ~~such~~ certification of compliance shall be made by filing the following items with the Department ~~the following items:~~

1. A copy of the Certification of Taxable Value, Form DR-420.
2. A copy of the ordinance or resolution adopting the millage rate.
3. A copy of the ordinance or resolution adopting the budget.
4. The entire page from the newspaper containing the final budget hearing advertisement, which is the notice of proposed tax increase advertisement required by Sections 200.065(2)(d) and (3)(a), Florida Statutes, or the notice of budget hearing advertisement required by Sections 200.065(2)(d) and (3)(b), Florida Statutes, whichever is appropriate, and which is required to be adjacent to the budget summary advertisement. For multicounty taxing authorities, the entire page from the newspaper containing the notice of proposed tax increase advertisement or notice

of tax increase advertisement required by Sections 200.065(2)(d), (3)(a), (3)(g), and ~~(9)(8)~~, Florida Statutes, or the notice of budget hearing advertisement required by Sections 200.065(2)(d), (3)(b), (3)(e), and (8), Florida Statutes, and which is required to be adjacent to the budget summary advertisement.

5. The entire page from the newspaper containing the budget summary advertisement required by Sections 200.065(3)(l) and 129.03(3)(b), Florida Statutes, adjacent to the advertisement required by subparagraph 4. of this rule subsection above.

6. Proof(s) of publication from the newspaper of the notice of tax increase or notice of proposed tax increase advertisement or notice of budget hearing advertisement, and the adjacent budget summary advertisement. In the event notice is not published but is mailed according ~~pursuant~~ to Section 200.065(3)(f), Florida Statutes, a taxing authority must ~~may~~ submit a certification of mailing from the post office with a copy of the notices.

7. For counties only, a copy of the Notice of Tax Impact of the Value Adjustment Board advertisement described in Section 194.037, Florida Statutes and Rule 12D-9.038, F.A.C. (the entire page from the newspaper).

8. For counties only, proof of publication of the notice of tax impact of the value adjustment board advertisement. If the value adjustment board completes its hearings after the deadline for certification under Section 200.068, Florida Statutes, the county shall submit this item to the Department within 30 days from the completion of the hearings.

9. A copy of the Certification of Final Taxable Value, Form DR-422, if the property appraiser has issued one as of this date. If the taxing authority has not received this certification, then the taxing authority shall file the remainder of the certification package with the Department within the deadline and shall file the certification Form DR-422 as soon as it is received.

10. Form DR-420TIF, Tax Increment Adjustment Worksheet.

11. Form DR-420DEBT, Certification of Voted Debt Millage, if used.

12. Form DR-420MM, Maximum Millage Levy Calculation – Final Disclosure, including the maximum millage rates calculated pursuant to Section 200.065(5), Florida Statutes, together with values and calculations on which the maximum millage rates are based.

13. Form DR-487V, Vote Record for Final Adoption of Millage Levy.

14. Form DR-422DEBT, Certification of Final Voted Debt Millage, if used.

15 ~~10~~. Certification of Compliance, Form DR-487.

The forms listed above are incorporated by reference in Rule 12D-16.002, F.A.C.

(b) For school districts, ~~the such~~ certification of compliance shall be made by filing the following items with the Department ~~the following items~~:

1. A copy of the Certification of Taxable Value, Form DR-420S.
2. A copy of Department of Education Form ESE-524.
3. A copy of Page 1 of the District Summary Page, Department of Education Form ESE-139.
4. The tentative budget hearing advertisement, which is the notice of proposed tax increase advertisement required by Sections 200.065(2)(f) and (3)(c) or (3)(d), Florida Statutes, or the notice of budget hearing advertisement required by Sections 200.065(2)(f) and (3)(e), Florida Statutes, whichever is appropriate, and which is required to be adjacent to the budget summary advertisement (the entire page from the newspaper).
5. Proof of publication from the newspaper of the tentative budget hearing advertisement.
6. The budget summary advertisement required by Sections 200.065(3)(l) and 129.03(3)(b), Florida Statutes, adjacent to the advertisement required by subparagraph 4. of this rule subsection above (the entire page from the newspaper).

7. Proof(s) of publication from the newspaper of the notice of proposed tax increase advertisement or notice of budget hearing advertisement, and the budget summary advertisement. In the event notice is not published but is mailed according pursuant to Section 200.065(3)(f), Florida Statutes, a school district must may submit a certification of mailing from the post office with a copy of the notices.

8. The Notice of Tax for School Capital Outlay advertisement, required by Section 200.069(10)(a) 200.065(9)(a), Florida Statutes, (the entire page from the newspaper).

9. Proof of publication from the newspaper of the Notice of Tax for School Capital Outlay advertisement.

10. Copy of the Certification of Final Taxable Value, Form DR-422, if the property appraiser has issued one as of this date. If the school district has not received this certification, then the remainder of the certification package shall be filed with the Department within the deadline and the certification shall be filed as soon as it is received.

11. A copy of Certification of Voted Debt Millage, Form DR-420DEBT, if used.

12. A copy of Department of Education Form ESE-524A, Critical Needs Millage Resolution, if used.

13. An Amended Notice of Tax for School Capital Outlay advertisement, required by Section 200.065(10)(b), Florida Statutes, (the entire page from the newspaper).

14. Proof of publication from the newspaper of the Amended Notice of Tax for School Capital Outlay advertisement.

15. Copy of the Certification of Final Voted Debt Millage, Form DR-422DEBT, if used.

16. Certification of Compliance, Form DR-487.

The forms listed above are incorporated by reference in Rule 12D-16.002, F.A.C.

(3) through (4) - No change.

Rulemaking Specific Authority 195.027(1), 213.06(1), 218.26(1) FS. Law Implemented 195.002, 200.001, 200.065, 200.068, 213.05, 218.21, 218.23, 218.63 FS. History—New 6-20-91, Amended 12-25-96, 12-31-98,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-17, FLORIDA ADMINISTRATIVE CODE
TRUTH IN MILLAGE (TRIM) COMPLIANCE
AMENDING RULE 12D-17.005

12D-17.005 Taxing Authorities in Violation of Section 200.065, Florida Statutes.

(1) through (2)(c) - No Change.

(3) If any county or municipality, dependent special district of the county or municipality, or municipal service taxing unit of the county is in violation of Subsection 200.065(5), Florida Statutes, because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes, respectively, that county or municipality, and any municipal service taxing unit and/or dependent district, must remedy the violation. If not remedied, the county or municipality will be subject to forfeiture of the half-cent sales tax revenues as described in Section 200.065(13), Florida Statutes and this Rule Chapter.

Rulemaking-Specific Authority 195.027(1), 213.06(1), 218.26(1) FS. Law Implemented 195.002, 200.001, 200.065, 200.068, 213.05, 218.21, 218.23, 218.63 FS. History—New 6-20-91, Amended 4-18-94, 12-25-96, 12-31-98, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-17, FLORIDA ADMINISTRATIVE CODE
TRUTH IN MILLAGE (TRIM) COMPLIANCE
AMENDING RULE 12D-17.006

12D-17.006 Notification of Noncompliance; Withholding and Escrow of State Revenue Sharing Funds.

(1) through (4) - No Change.

(5) If any county or municipality, dependent special district of the county or municipality, or municipal service taxing unit of the county is in violation of Section 200.065(5), Florida Statutes, because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes, respectively, that county or municipality, and any municipal service taxing unit and/or dependent district, shall be subject to notification.

(6)(a) One or more taxing authorities whose taxes are included in the maximum total taxes levied must reduce their millage sufficiently so that the maximum total taxes levied is not exceeded if any county or municipality, dependent special district of the county or municipality, or municipal service taxing unit of the county is in violation of Subsection 200.065(5), Florida Statutes, because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes. This is an alternative to the county or municipality forfeiting the half-cent sales tax revenues, as provided in Section 200.065(5), Florida Statutes.

(b) The county or municipality shall forfeit the distribution of local government half-cent

sales tax revenues during the 12 months following a determination of noncompliance, as described in Sections 218.63(2) and (3), 200.065(13), Florida Statutes, if a taxing authority does not reduce its millage so that the maximum total taxes levied is not exceeded, or if any county or municipality, dependent special district of the county or municipality, or municipal service taxing unit of the county has not remedied the noncompliance or recertified compliance with Chapter 200 as provided in Section 200.065(13)(e), Florida Statutes.

Rulemaking-Specific Authority 195.027(1), 213.06(1), 218.26(1) FS. Law Implemented 195.002, 200.001, 200.065, 200.068, 213.05, 218.21, 218.23, 218.63 FS. History—New 6-20-91, Amended 12-25-96, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-18, FLORIDA ADMINISTRATIVE CODE
NON-AD VALOREM ASSESSMENTS AND SPECIAL ASSESSMENTS
CREATING RULE 12D-18.012

12D-18.012 Tax Collector Non-Ad Valorem Assessment Roll Reports.

(1) Each county tax collector must provide a report to the Department of Revenue which includes information about each non-ad valorem assessment collected using the notice of taxes and referenced in Section 197.3632(5)(b), F.S. The following information shall be included in the report:

(a) The name of the local government levying the non-ad valorem assessment and a code indicating whether the local government is a county, municipality or independent special district.

(b) The name of the non-ad valorem levy as included on the tax notice.

(c) A short description of the function of the non-ad valorem levy and a code indicating the nature of the function.

(d) The basis of the levy, the unit of measurement against which the rate is applied to determine the non-ad valorem assessment, and a code indicating type of basis.

(e) The rate for each unit or basis of the non-ad valorem levy.

(f) The number of parcels the non-ad valorem assessment is levied on.

(g) The total dollar amount of the non-ad valorem assessment levied.

(h) An indication of whether or not the local government levying the non-ad valorem assessment also levies an ad valorem tax.

(2) The tax collector must file the report with the Department of Revenue by December 15 each year. The report must be filed on Form DR-503NA (incorporated by reference in Rule 12D-16.002). The tax collector must mail the report to the Florida Department of Revenue, Property Tax Oversight: Non-Ad Valorem Assessments, Post Office Box 3000, Tallahassee, Florida 32315-3000.

Rulemaking Authority 195.027(1), 197.3632(11), 213.06(1) F.S. Law Implemented 197.322, 197.363, 197.3631, 197.3632, 197.3635, 213.05 F.S. History-New _____.

ATTACHMENT 3



Interim
Executive
Director
Marshall Stranburg

September 18, 2012

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Marc Slager, Deputy Chief of Staff/Cabinet Affairs Director
Rachel Goodson, Cabinet Aide

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Cabinet Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer
Services
Attention: Jim Boxold, Chief Cabinet Aide
Brooke McKnight, Cabinet Aide

THRU: Marshall Stranburg, Interim Executive Director

FROM: Andrea Moreland, Director, Legislative and Cabinet Services *AM*

SUBJECT: Requesting Approval to Hold Public Hearing on Proposed Rules –
2012 Legislative Changes

Statement of Sections 120.54(3)(b) and 120.541, F.S. Impact: No impact.

The Department has reviewed the proposed rules for compliance with Sections 120.54(3)(b) and 120.541, F.S. The proposed rules will not likely have an adverse impact on small business, small counties, or small cities, and they are not likely to have an increased regulatory cost in excess of \$200,000 within 1 year. Additionally, the proposed rules are not likely to have an adverse impact or increased regulatory costs in excess of \$1,000,000 within 5 years.

What is the Department Requesting? Section 120.54(3)(a), F.S., requires the Department to obtain Cabinet approval to hold public hearings for the development of proposed rules. The Department therefore requests approval to publish Notices of Proposed Rule in the Florida Administrative Weekly for the following rules:

- Sales and Use Tax (*Chapter 12A-1, F.A.C.*)
- Registration of Secondhand Dealers or Secondary Metals Recyclers (*Chapter 12A-17, F.A.C.*)
- Communications Services Tax (*Chapter 12A-19, F.A.C.*)
- Corporate Income Tax (*Chapter 12C-1, F.A.C.*)
- Fuel Tax (*Chapter 12B-5, F.A.C.*)
- Insurance Premium Tax, Fees, and Surcharges (*Chapter 12B-8, F.A.C.*)
- Annual Tax on Government Leasehold Estates (*Chapter 12C-2, F.A.C.*)

Why are the proposed rules necessary? These rule changes are necessary to update rule provisions to incorporate law changes made by the 2012 Legislature and to update annual tax returns for reporting and paying taxes to the Department.

What do the proposed rules do?

Sales and Use Tax

- Provide that charges for individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, are not subject to the tax imposed on admissions (*Rule 12A-1.005, F.A.C.*)
- Provide taxpayers information on how to obtain a refund of previously paid sales and use tax on purchases of equipment, machinery, and other materials for renewable energy technologies (*Section 212.08(7)(hhh), F.S., created by Section 4, Chapter 2012-117, L.O.F.*) (*New Rule 12A-1.0144, F.A.C.*)
- Repeal the sales and use tax rule on the transfer of tax liability when a dealer sells or discontinues a business rendered obsolete by the provisions of Section 213.758, F.S. (*Section 8, Chapter 2010-166, L.O.F.; Section 1, Chapter 2012-55, L.O.F.*) (*Repeal Rule 12A-1.055, F.A.C.*)
- Update the rule and sales and use tax returns to provide that only those dealers who file electronic tax returns and remit the amounts due on the returns by electronic means for sales tax returns due may claim a collection allowance (*Section 2, Chapter 2012-145, L.O.F.*) (*Rules 12A-1.056 and 12A-1.097, F.A.C.*)
- Include the expansion of the exemption for electricity used in the production or processing of agricultural farm products on the farm to include packing agricultural farm products on the farm and to include electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution (*Section 8, Chapter 2012-32, L.O.F.*) (*Rule 12A-1.087, F.A.C.*)
- Update to reflect the reduction from 10 percent to 5 percent in the productive output required for expanding businesses to qualify for a sales tax exemption for machinery and equipment (*Section 8, Chapter 2012-32, L.O.F.*) (*Rule 12A-1.096, F.A.C.*)

Registration of Secondhand Dealers or Secondary Metals Recyclers

- Remove unnecessary provisions that are redundant of Section 538.11, F.S. (*Rule 12A-17.001, F.A.C.*)

- Update registration procedures to allow for electronic fingerprinting (*Rules 12A-17.003 and 12A-17.005, F.A.C.*)
- Update the registration requirements for persons purchasing, consigning, or trading secondhand goods at a flea market and auction businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations (*Section 1, Chapter 2012-179, L.O.F.*) (*Rules 12A-17.003 and 12A-17.005, F.A.C.*)

Communications Services Tax

- Update the communications services tax rules and tax returns to redefine “cable service” as “video service” (*Sections 2 and 6, Chapter 2012-70, L.O.F.*) (*Rules 12A-19.010, 12A-19.041, and 12A-19.100, F.A.C.*)
- Update provisions to reflect the prohibition from denying the collection allowance to a dealer who utilizes one of the approved methods for assigning service addresses to a local jurisdiction solely as a result of incorrect address assignments (*Section 6, Chapter 2012-70, L.O.F.*) (*Rule 12A-19.070, F.A.C.*)
- Provide when communications services dealers may be held liable for the net aggregate underpayment of tax and associated interest and penalties for incorrectly assigning a service address to a local taxing jurisdiction (*Section 6, Chapter 2012-70, L.O.F.*) (*Rule 12A-19.070, F.A.C.*)
- Remove “roominghouses” as an example of a transient public lodging establishment (*Effective October 1, 2012, Chapter 2012-165, L.O.F.*) (*Rule 12A-19.041, F.A.C.*)
- Update tax returns to include local communications services tax rates that will become effective January 1, 2013 (*Rule 12A-19.100, F.A.C.*)

Corporate Income Tax

- Provide for the carry forward period for certain capital investment tax credits (*Section 1, Chapter 2011-223, L.O.F.*) (*Rule 12C-1.0191, F.A.C.*)
- Update the rule and credit transfer form for the Florida Renewable Energy Production Credit to reflect that applications for the tax credit will be submitted to the Department of Agriculture and Consumer Services (*Section 7, Chapter 2012-117, L.O.F.*) (*Rules 12C-1.0193 and 12C-1.051, F.A.C.*)
- Update the annual corporate income tax returns for tax years beginning in 2012 and other material adopted by reference (*Rules 12C-1.0221 and 12C-1.051, F.A.C.*)

Fuel Tax

- Incorporate the definition regarding alternative fuel (*Section 13, Chapter 2012-117, L.O.F.*) (*Rule 12B-5.020 and 12B-5.150, F.A.C.*)
- Clarify that a refund of the highway fuel taxes is allowed for agricultural equipment bearing a goat tag, even though the equipment may be moved on the highways between farms (*Rule 12B-5.130, F.A.C.*)
- Update the tax returns for reporting fuel and pollutant taxes to remove the requirement to annually update the tax return (*Rule 12B-5.150, F.A.C.*)

Insurance Premium Tax, Fees, and Surcharges

- Remove unnecessary provisions that are redundant of Section 624.510, F.S. (*Rule 12B-8.002, F.A.C.*)
- Update the annual insurance premium tax returns for reporting and paying tax in 2013 (*Rule 12B-8.003, F.A.C.*)

Annual Tax on Government Leasehold Estates

- Include the expansion of the public purpose exemption from ad valorem taxes to also exempt the governmental leasehold intangible tax (*Sections 1 and 2, Chapter 2012-32, L.O.F.*) (*Rules 12C-2.004 and 12C-2.0115, F.A.C.*)
- Update the government leasehold estate tax return and provide that the annual valuation table will be published on the Department's website (*Rules 12C-2.010 and 12C-2.0115, F.A.C.*)

Were comments received from external parties? No.

Attached are copies of:

- Summaries of the proposed rules, which include:
 - Statements of facts and circumstances justifying the rules;
 - Federal comparison statements; and
 - Summaries of workshops and hearings.
- Rule text

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE

SALES AND USE TAX

CREATING RULE 12A-1.0144

REPEALING RULE 12A-1.055

AMENDING RULES 12A-1.005, 12A-1.056, 12A-1.087, 12A-1.096, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), provide that charges for individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, are not subject to the tax imposed on admissions.

The proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), provides how to obtain a refund of previously paid sales and use tax on purchases of equipment, machinery, and other materials for renewable energy technologies, as provided in Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F.

The proposed repeal of Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), removes the rule containing obsolete provisions relating to the transfer of liability for sales and use tax when a person transfers or quits a business that are provided in Section 213.758, F.S., as amended by Section 1, Chapter 2012-55, L.O.F.

The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), incorporate the provisions of Section 2, Chapter 2012-145, L.O.F.,

which continues to allow a collection allowance for only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means for sales tax returns due on or after July 1, 2012.

The proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), incorporate the provisions of Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., effective January 1, 2013, including: (1) changing the rule title of the rule to reflect the inclusion of the provisions regarding electricity used for certain agricultural purposes; (2) the exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (3) expanding the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

The proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), incorporate the provisions of Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, updates and changes to sales and use tax returns necessary to incorporate the provisions of Section 2, Chapter 2012-145, L.O.F., which continues to allow only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means to claim a collection allowance for sales tax returns due on or after July 1, 2012.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), are necessary to provide that charges for individuals traveling in air commerce are not subject to the tax imposed on admissions.

Effective July 1, 2012, Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F., provides an exemption for purchases of equipment, machinery, and other materials for renewable energy technologies obtained by a refund of previously paid sales and use tax. The proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), is necessary to provide taxpayers information on how to obtain the refund of tax paid on such items used for renewable energy technologies.

Section 213.758, F.S., created by Section 8, Chapter 2010-166, L.O.F., and amended by Section 1, Chapter 2012-55, L.O.F., provides for the transfer of tax liability. Sections 3 and 4, Chapter 2012-55, L.O.F., repeal Sections 202.31 and 212.10, F.S., respectively, regarding the sale of a business and the transfer of liability for communications services tax and for sales and use tax. The proposed repeal of obsolete Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), is necessary to remove obsolete provisions regarding the transfer of tax liability when a dealer sells or discontinues a business.

Section 2, Chapter 2012-145, L.O.F., provides that only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means will continue to be entitled to a collection allowance for sales tax returns due on or after July 1, 2012. The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to the sales and use tax returns adopted, by reference, in Rule 12A-1.097,

F.A.C. (Public Use Forms), are necessary to incorporate this change.

The proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), are necessary to include the amendments to Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013: (1) provide an exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (2) expand the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment. Proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), is necessary to incorporate this change.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2898 – 2899), to advise the public of the proposed

amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.005 Admissions

12A-1.0144 Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials
for Renewable Energy Technologies

12A-1.055 Sale or Discontinuation of Business

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations

12A-1.087 Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural
Purposes; Suggested Exemption Certificate for Items Used for Agricultural
Purposes

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), is to provide that charges for individuals traveling in air commerce are not subject to the tax imposed on admissions.

Effective July 1, 2012, Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F., provides an exemption for purchases of equipment, machinery, and other materials for renewable energy technologies obtained by a refund of previously paid sales and use tax. The purpose of the proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), is to provide taxpayers information on how to obtain the refund of tax paid on

such items used for renewable energy technologies.

Section 213.758, F.S., created by Section 8, Chapter 2010-166, L.O.F., and amended by Section 1, Chapter 2012-55, L.O.F., provides for the transfer of tax liability. Sections 3 and 4, Chapter 2012-55, L.O.F., repeal Sections 202.31 and 212.10, F.S., respectively, regarding the sale of a business and the transfer of liability for communications services tax and for sales and use tax. The proposed repeal of obsolete Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), is necessary to remove obsolete provisions regarding the transfer of tax liability when a dealer sells or discontinues a business.

Section 2, Chapter 2012-145, L.O.F., provides that only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means will continue to be entitled to a collection allowance for sales tax returns due on or after July 1, 2012. The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to the sales and use tax returns adopted, by reference, in Rule 12A-1.097, F.A.C. (Public Use Forms), are necessary to incorporate this change.

The purpose of the proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), is to include the amendments to Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013: (1) provide an exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (2) expand the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment. Proposed amendments to Rule 12A-

1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), is necessary to incorporate this change.

SUMMARY: The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), provide that charges for individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, are not subject to the tax imposed on admissions.

The proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), provides how to obtain a refund of previously paid sales and use tax on purchases of equipment, machinery, and other materials for renewable energy technologies, as provided in Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F.

The proposed repeal of Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), removes the rule containing obsolete provisions relating to the transfer of liability for sales and use tax when a person transfers or quits a business that are provided in Section 213.758, F.S., as amended by Section 1, Chapter 2012-55, L.O.F.

The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), incorporate the provisions of Section 2, Chapter 2012-145, L.O.F., which continues to allow a collection allowance for only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means for sales tax returns due on or after July 1, 2012.

The proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), incorporate the provisions of Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., effective January 1, 2013, including: (1)

changing the rule title of the rule to reflect the inclusion of the provisions regarding electricity used for certain agricultural purposes; (2) the exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (3) expanding the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

The proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), incorporate the provisions of Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, updates and changes to sales and use tax returns necessary to incorporate the provisions of Section 2, Chapter 2012-145, L.O.F., which continues to allow only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means to claim a collection allowance for sales tax returns due on or after July 1, 2012.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is

required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.04(4), 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, 212.0506(4), (11), 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, 212.10(1), (2), (4), 212.11, 212.12(1), - (5), (9), (13), 212.13, 212.14(2), (4), (5), 212.15(1), 212.17, 212.18(2), (3), 212.183, 213.053, 213.235, 213.255, 213.29, 213.37, 213.755, 215.26(2), 219.07, 288.1258, 373.41492, 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), 616.260, 681.117, 823.14(3) FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Parsons, Jeff Soff, or Janet L. Young, Tax Law Specialists, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
CREATING RULE 12A-1.0144
REPEALING RULE 12A-1.055

AMENDING RULES 12A-1.005, 12A-1.056, 12A-1.087, 12A-1.096, AND 12A-1.097

12A-1.005 Admissions.

(1) through (2) No change.

(3) TAXABLE ADMISSIONS AND PARTICIPATION FEES. The following paragraphs contain examples of admission charges that are subject to tax, unless such admissions are specifically exempt under the provisions of Section 212.04(2), F.S. This list is not intended to be an exhaustive list.

(a) through (k) No change.

(l) Charges measured on an admission or entrance or length of stay for rides on ~~helicopters~~, sightseeing trolley cars, sightseeing buses or trains, or any sightseeing or amusement ride where the participant is normally returned to the origination point are taxable. This does not apply to:

1. Charter or regularly scheduled aircraft, bus, taxi, trolley, or train travel where the passengers may disembark for shopping, dining, or other activities at points other than the origination point; or

2. Individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot

air balloon rides.

(m) Charges made for tethered hot air balloon rides are taxable.

(4) through (6) No change.

Rulemaking Authority 212.04(4), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, 4-26-10, 1-12-11,_____.

12A-1.0144 Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies.

(1) Who May Claim the Refund. Any applicant who has obtained a written certification issued by the Department of Agriculture and Consumer Services is eligible for a refund. The refund is based on Florida sales and use taxes previously paid on:

(a) Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), and other renewable fuels, including fueling infrastructure, transportation, and storage for these fuels; and

(b) Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distributions.

(2) Applying for the refund.

(a) To receive a refund of Florida sales and use taxes previously paid on eligible items, taxpayers must first file an application with the Department of Agriculture and Consumer Services.

(b) The required application may be obtained, without cost, at www.freshfromflorida.com

or by telephone at 850-617-7470.

(3) Obtaining the refund.

(a) To obtain a refund of Florida sales and use tax previously paid on eligible items, the applicant must file a completed Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), along with a copy of the written certification, with the Department of Revenue. Form DR-26S must be filed within 6 months from the date of the written certification issued by the Department of Agriculture and Consumer Services. Form DR-26S, with a copy of the certification letter, should be mailed to:

Florida Department of Revenue

Refunds Process

P.O. Box 6490

Tallahassee, Florida 32314-6490.

(b) The amount of a refund claim is limited to the amount approved and certified by the Florida Department of Agriculture and Consumer Services.

(c) A refund will be issued within 30 days after the refund application is determined to be complete and the amount of the refund due is approved by the Department of Revenue.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(7)(hhh).

213.255 FS. History–New _____.

12A-1.055 Sale or Discontinuation of Business.

~~(1)(a) For purposes of this rule, the term “business” is as defined in s. 212.02(2), F.S.~~

~~(b) When any dealer under Chapter 212, F.S., sells out his business or stock of goods, he shall make a final return and pay any such tax, interest, or penalty due within fifteen days after~~

~~the date of sale. It shall be the duty of the purchaser of the business or stock of goods to obtain from the seller a written statement from the Department of Revenue showing the amount of any unpaid Chapter 212, F.S., tax, interest, or penalty as of the date of the sale of the business, and the purchaser shall withhold a sufficient portion of the purchase money to cover the amount of such unpaid taxes, interest and/or penalties until the seller shall produce a receipt from the Department of Revenue showing that said amount has been paid. If no such taxes, interest, or penalty are due by the seller, the seller shall present to the purchaser a certificate from the Department of Revenue to that effect, as provided in subsection (4).~~

~~(c) If the purchaser of a business or stock of goods shall fail to withhold sufficient amount of the purchase money as above provided, he shall be personally liable for the payment of the taxes, interest, and penalties levied under Chapter 212, F.S., accruing and unpaid on account of the operation of the business by any former owner, owners, or assigns.~~

~~(2) If any dealer liable for any tax, interest or penalty shall quit the business without the benefit of a purchaser and there is no successor, successors or assigns, he shall make a final return and payment within fifteen days. Any person failing to file such final return and make payment shall be denied the right to engage in any business in the state until he has filed such final return and paid any monies due.~~

~~(3) For purposes of this rule:~~

~~(a) A business is deemed to have been "sold out" when:~~

~~1. The dealer for consideration transfers, to the extent that the transferring dealer no longer continues in that business, to another, its stock of goods or other component parts of the business.~~

~~a. Example: A corporation that owns a chain of five department stores in Florida sells~~

~~four of them, and continues operating one of them. This would not be a “selling out”, since the corporation is still in that type of business.~~

~~b. Example: Same facts as above, except that each of the five department stores is owned by a different corporation, 100 percent of the stock of each of which is owned by a parent corporation, and each of four of these corporations sells its department store business and goes out of business. This would be a “selling out” by each of the four, even though the fifth one continues in business.~~

~~2. A part owner of a business, such as a partner or member of a joint adventure, sells his interest in the business to another, and the legal effect of doing so, under the law applicable to the facts, is to terminate the former partnership or joint adventure and to begin a new one, with the result that all members of the new arrangement are obligated for Chapter 212, F.S., taxes, interest, and penalties that accrued under the former arrangement.~~

~~3. A tenant abandons his business owing his landlord rent and the landlord, acting under an abandonment clause in the lease, takes ownership of tangible personal property left on the premises by the tenant.~~

~~(b) A business will be deemed to have been “sold out” when a business previously operated under one type of organization is transferred for consideration to another type of organization, such as from a sole proprietorship to a corporation, from a partnership to a corporation; or when there is a corporate reorganization as a result of which the business is owned by a corporation other than the corporation that previously owned it; or when ownership of a business is transferred from a subsidiary to a parent corporation or to another subsidiary of the parent, or from a parent to a subsidiary.~~

~~(c) A business is deemed not to have been “sold out” when:~~

~~1. A part owner of a business, such as a partner or member of a joint adventure, sells his interest in the business to another and the legal effect of doing so, under the law applicable to the facts, is not to terminate the former partnership or joint adventure and to begin a new one, with the result that while the new partner may assume responsibility for tax and other obligations of the business that accrued before the purchase of the interest in the business, the new partner will not be responsible for preexisting tax obligations on account of a selling out of a business.~~

~~2. Real or tangible personal property of a business is transferred by foreclosure; or~~

~~3. There is a change in ownership of stock in a corporation that owns a business; or~~

~~4. Parts of its assets are sold to various purchasers, without the purchase of a major portion of the assets of the business by one purchaser or a group of purchasers acting in concert.~~

~~(d)1. A “stock of goods” for purposes of this rule is synonymous with “inventory”. A stock of goods is deemed to have been “sold out” if an overwhelming preponderance of dealer’s inventory is sold for a consideration, other than in the ordinary course of business, to a purchaser or group of purchasers who are acting in concert, and the former owner of the business is no longer in business.~~

~~2. Example: An owner of a business decides to go out of business, and conducts a sale to bring in money quickly. From his inventory, he sells to numerous purchasers, one of whom has acted in concert with other purchasers and none of whom purchases a preponderance of the stock of goods. Even though he may have completely disposed of his inventory as a result, these sales would not be a “selling out of the stock of goods” for purposes of subsection (1), since the sales were “in the ordinary course of business” and no purchaser or group of purchasers acting in concert purchased a preponderance of the stock of goods; but such retail sales would have been subject to sales tax.~~

~~(4)(a) An application for a certificate of the type to which reference was made in subsection (1) may be filed by a dealer who has sold out or who contemplates selling out its business or stock of goods. Such application shall be filed on the Seller's Application for Transferee Liability Certificate, Form DR-842 (incorporated by reference in Rule 12A-1.097, F.A.C.), which shall specify the period before such sale or contemplated sale for which the audit and certificate is requested.~~

~~(b) If a dealer who has sold out its business or stock of goods fails or refuses to apply for a certificate, the dealer who has purchased it may do so on the Purchaser's Application for Transferee Liability Certificate, Form DR-843 (incorporated by reference in Rule 12A-1.097, F.A.C.).~~

~~(c) In response to an application filed either on the Seller's Application for Transferee Liability Certificate, Form DR-842, or on the Purchaser's Application for Transferee Liability Certificate, Form DR-843, the Department will, within 20 days after receipt of the application, issue a Transferee Liability Certificate, Form DR-844 (incorporated by reference in Rule 12A-1.097, F.A.C.), covering any portion of the requested audit period for which the Department has already conducted an audit. If the Department has not conducted an audit for any portion of the audit period for which the certificate is requested, it will conduct an audit for that period if arrangements can be made for such an audit, as provided in subsection (5), and based on that audit, will issue a Transferee Liability Certificate, Form DR-844, for that audit period.~~

~~(d) If the audit for any audit period for which a certificate is requested shows that no Chapter 212, F.S., taxes, interest, or penalties are due on account of transactions during that audit period, the certificate shall so state. If the audit shows that Chapter 212, F.S., taxes, interest, or penalties are due on account of such transactions, the certificate shall state the amount and the~~

basis for that finding.

~~(e) The certificate shall be delivered by the department only to the seller of the business, unless the department asserts transferee liability against the purchaser or other person, based on the contents of the certificate, in which event the certificate or information contained therein will also be delivered to such person. The certificate or information contained therein shall be delivered to no other person.~~

~~(f) Information discovered after issuance of a certificate, such as that which is uncovered in a subsequent audit of the selling dealer's records, cannot, absent fraud or collusion by the purchaser, be used as the basis for a claim against the purchasing dealer for more than was shown due on the certificate.~~

~~(g) If a business or stock of goods has been sold out and the certificate or subsequent audit shows that previously unassessed Chapter 212, F.S., taxes, interest, and penalties which arose under the seller are due, the seller shall remain liable for the entire liability to the extent it remains unsatisfied, and the purchaser incurs joint and several liability with the seller for such liability to the extent of the seller's equity in the business or stock of goods at the time of the sale.~~

~~(5)(a) Neither the sale of the business or stock of goods nor the issuance of the receipt or certificate to which reference was made in subsection (1) terminates the responsibility of the seller of the business or stock of goods to retain records as long as is required by Rule 12A-1.093, F.A.C., unless the records are transferred to the purchasing dealer, in which event, the purchasing dealer is required to retain them that long.~~

~~(b) In response to an application filed either on the Seller's Application for Transferee Liability Certificate, Form DR-842, or on the Purchaser's Application for Transferee Liability~~

~~Certificate, Form DR-843, the Department will issue a certificate for any audit period requested in the application for which it has not already performed an audit by performing an audit of the selling dealer's records, whether still in his possession or transferred to the purchaser, or will notify the applicant for the certificate that such audit can be conducted only if the applicant agrees to pay its cost.~~

~~(c) The Department may contract with private auditors pursuant to s. 213.28, F.S., to perform the requested audit or may do so with its own personnel, whether or not the cost of the audit is charged to the person requesting the audit.~~

~~(d) Within sixty days after the applicant for the certificate agrees to pay the cost of the audit, the Department will issue the requested certificate based on the audit of the selling dealer. The certificate, when issued, will report the Department's conclusions relating only to the audit period for which the audit was conducted; but if the seller, either before or after the sale of the business or stock of goods, or the purchaser after the sale, would like another certificate covering an audit period before the sale but before or after the audit period for which another certificate was issued, it can apply for such a certificate by filing a Seller's Application for Transferee Liability Certificate, Form DR-842, or a Purchaser's Application for Transferee Liability Certificate, Form DR-843.~~

~~(6)(a) Since the sale of the trade name, good will, and going concern value of a business, as part of the sale of the business, is the sale of intangible personal property, the sale of those elements of the business is not subject to sales tax.~~

~~(b) The sale to the purchaser of a business, as part of the sale of the business, of tangible personal property other than inventory that had been used by the seller of the business in conducting the business is an occasional or isolated sale, and is thus not taxable, with the~~

~~exception of aircraft, boats, mobile homes, and motor vehicles, and with other exceptions described in Rule 12A-1.037, F.A.C.~~

~~(c) The sale of inventory or a stock of goods, whether or not as part of the sale of a business, is a sale for resale, and, thus, is not subject to sales tax if the seller takes from the purchaser a sales tax resale certificate, as provided in Rule 12A-1.038, F.A.C.~~

~~(7) Rule 12A-1.060, F.A.C., requires that the purchaser of a business, before engaging in or conducting business in this state, file an application for its own certificate of registration. The registration of the selling dealer is not transferable.~~

~~(8)(a) Nothing in s. 212.10, F.S., or this rule precludes applicability of remedies provided the Department by Chapter 676, F.S. (“Uniform Commercial Code—Bulk Transfers”), as a creditor in collecting taxes, interest, or penalties owed it. Therefore, the Department may proceed either under s. 212.10, F.S., or under Chapter 676, F.S., or both, in collecting taxes, interest, or penalties from a transferee.~~

~~(b) That there has been compliance with the requirements of Chapter 676, F.S., does not preclude assertion of transferee liability against the purchaser of a business or stock of goods under authority of s. 212.10, F.S.~~

~~(9)(a) When there is a lien on an asset that antedated the creation of a claim for unpaid Chapter 212, F.S., taxes, interest, or penalties, as provided in this rule, such claim in favor of the Department applies only to the extent of the seller’s equity above the prior lien. Example: Dealer A rents premises and purchases from the landlord certain tangible personal property for use in his business and gives the landlord a chattel mortgage on it as security for a portion of the purchase price. Later, the landlord enforces the chattel mortgage and repossesses the property that is so encumbered. When the Department acts to enforce its claim based on the operation of the~~

~~business under the tenant's management, it finds that the tenant has no equity in the property. Therefore, the Department cannot assert transferee liability with reference to the property repossessed by the lienholder.~~

~~(b) The liability of a transferee of a taxpayer for any Chapter 212, F.S., tax, interest, or penalty due shall be assessed, paid, and collected in the same manner and subject to the same provisions and limitations as in the case of the tax, interest, or penalty to which the liability relates.~~

~~(c) The Department shall not begin collection action against a transferee until it notifies him of the transferee liability asserted against him, and the basis for assertion of transferee liability. The transferee shall have 60 days after such notice is mailed to him within which to file an action contesting such asserted transferee liability, as provided in Chapter 72, F.S., during which time the Department may take no action to collect the amount due on account of the asserted liability. Notwithstanding this paragraph, there may be jeopardy assessments and actions taken under those assessments, when permissible.~~

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (14)(a), 212.04(6), 212.06(1), 212.07(1)(b), 212.10(1), (2), (4), 212.18(3), 213.053 FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.55, Amended 2-16-93, 1-4-94, Repealed.

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1) No change.

(2) COLLECTION ALLOWANCE.

(a) A collection allowance is authorized as As compensation for the prescribed record keeping, accounting for, and for the timely reporting and remitting taxes or fees on the same

~~documents utilized for~~ of sales and use tax and discretionary sales surtax by electronic means
~~such seller, person, lessor, dealer, owner, and remitter shall be allowed a collection allowance.~~

(b)1. The collection allowance (except for dealers who make mail order sales, see subsection (5) of Rule 12A-1.103, F.A.C.) ~~is shall be~~ computed at the rate of 2.5 percent on the first \$1,200 of tax due. ~~No There shall be no additional~~ collection allowance is authorized for tax collected in excess of \$1,200. ~~The Therefore, the~~ maximum amount of collection allowance authorized for any filing period for any electronic sales and use tax return is shall be \$30.

2. Dealers reporting and remitting tax by electronic means on the following returns are entitled to the collection allowance only when the electronic return is timely submitted and the amount due on the return is timely paid by electronic means:

a. Form DR-15EZ, Sales and Use Tax Return;

b. Form DR-15, Sales and Use Tax Return; or,

c. Form DR-15CON, Consolidated Summary-Sales and Use Tax Return, and Form(s)

DR-7, Consolidated Sales and Use Tax Return.

3. A collection allowance is not authorized for use tax reported on Form DR-15MO, Florida Tax on Purchases.

4. Forms DR-7, DR-15, DR-15CON, DR-15EZ, and DR-15MO are incorporated by reference in Rule 12A-1.097, F.A.C.

(c) Dealers operating more than one place of business and filing ~~under~~ a consolidated tax return by electronic means, where the consolidated return provides the monthly business activity for each location, are allowed the collection allowance for each reporting and registered location. Dealers who report tax collected within each county by electronic means using a county-control number are entitled to the collection allowance based upon the total amount reported on the

county-control reporting number.

(d) The collection allowance will not be allowed when:

1. The tax reported on an electronic ~~the~~ return is not timely paid by electronic means or is delinquent at the time of payment;

2. The required tax return is not submitted by electronic means or is delinquent; or

3. The required electronic tax return filed is incomplete. An “incomplete return” is a return that lacks such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return, or determination of other taxes and fees reported on the return, may not be readily accomplished.

(e)1. Any dealer who files a timely return by electronic means and timely pays the amount due on the return by electronic means may elect to donate the amount of collection allowance that is allowed on that return to the Educational Enhancement Trust Fund. The revenues deposited into this trust fund will go to school districts that have adopted resolutions stating that the funds from this trust fund will be used to ensure that up-to-date technology is purchased for the classrooms in those districts and that teachers are trained in the use of the technology. Dealers who are located outside Florida or whose business is located in a county where the school district has not adopted the required resolution may also elect to donate the amount of collection allowance that is allowed on their return to the trust fund. Funds received from these dealers will be equally distributed to school districts that have adopted the required resolutions.

2. Dealers who elect to donate their collection allowance must make an election on each electronic original return that is timely filed with the Department, ~~as provided in subsection (1)~~. The electronic payment required with the return must include the amount of collection allowance to be donated and must be timely paid ~~filed, as provided in subsection (1)~~. Dealers making the

election on their electronic return should not enter the amount of collection allowance on the return. Dealers who operate two or more places of business and file an electronic a consolidated return, ~~as provided in paragraph (1)(f)~~, must make the election on the consolidated return (Form DR-15CON, Consolidated Summary-Sales and Use Tax Return) and should not enter the amount of collection allowance on the location returns (Form DR-7, Consolidated Sales and Use Tax Return). The amount of the collection allowance will not be transferred to the Educational Enhancement Trust Fund when a dealer makes an election to donate the amount of its allowed collection allowance but does not include that amount with its payment. ~~Form DR-15CON, Consolidate Summary Sales and Use Tax Return, and Form DR-7, Consolidated Sales and Use Tax Return, are incorporated by reference in Rule 12A-1.097, F.A.C.~~

3. When a dealer files an electronic a return and timely pays the amount due ~~makes the payment required~~ with the return by electronic means ~~timely~~, the election to donate the amount of the collection allowance to the Educational Enhancement Trust Fund may not be rescinded for that return. Dealers are not permitted to file an amended return to make an election to donate the amount of the collection allowance to the trust fund when the election was not made on the original return as filed.

4. When a dealer elects to transfer the ~~The election to donate the collection allowance to the Educational Enhancement Trust Fund applies only when the dealer files a timely return. The amount of collection allowance transferred to the~~ Educational Enhancement Trust Fund, the amount transferred ~~trust fund~~ will be the amount remaining after resolution of any tax, interest, or penalty due, ~~when the dealer makes an election to transfer the amount of collection allowance on:~~

a. ~~A return that is filed with the Department after the due date, as provided in subsection (1);~~

~~b. A return that is incomplete, as provided in this subsection; or~~

~~c. When the dealer underpays the amount of tax due with the return.~~

(3) through (4) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 681.117 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, 11-6-07, 9-15-08,_____.

12A-1.087 Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1) through (8) No change.

(9)(a) Electricity used for the production, packing, or processing of agricultural ~~farm~~ 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 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 ~~nonproduction or nonprocessing~~ 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 ~~sheds where farm equipment is repaired~~, or administrative offices located on a farm or in a packinghouse, qualifies 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) No change.

(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 ~~farm~~ 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 a purchaser's~~ exemption certificate to be issued to a utility company to make tax-exempt purchases of electricity used for this purpose:

SUGGESTED ~~PURCHASER'S~~ 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~~ used in the production, packing, or processing of agricultural ~~farm~~ products on a farm
~~and is exempt from sales tax pursuant to Section 212.08(5)(e)2., F.S.~~

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.

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) 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), 212.07(5), 212.08(3), (5)(a), (e), 212.085, 823.14(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 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,_____.

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business.

(1) through (2) No change.

(3) Expanding Business.

(a) The purchase of industrial machinery and equipment, parts and accessories, and the installation thereof, is exempt from tax when purchased by an expanding business that uses such machinery and equipment at a fixed location in this state to increase the productive output of tangible personal property that is manufactured, processed, compounded, or produced for sale by not less than 5 ~~10~~ percent, or for exclusive use in spaceport activities.

(b) No change.

(c)1. To qualify for exemption as an expanding business, the taxpayer is required to provide information to the satisfaction of the Executive Director or the Executive Director's

designee that the items purchased will be or have been used to increase the productive output of the existing facility or specific product line(s) by not less than 5 ~~10~~ percent. An expanding business is allowed to specify whether the 5 ~~10~~ percent increase in productive output is for the entire plant or for specific product line(s). However, where the increase in productive output applies to a product or component that becomes part of different product lines, the increase in productive output will be determined by measuring the increase in the combined output of the different product lines. Similarly, if the additional machinery and equipment affects the productive output of more than one product line, the increase in productive output must be measured by all of the product lines that have been affected.

a. through c. No change.

2. through 3. No change.

(4) No change.

(5)(a) through (d) No change.

(e)1. No change.

2. An application for refund by an expanding business must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section 215.26(2), F.S. However, an application for refund will not be considered complete pursuant to Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund will not be approved, before the date an expanding business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 5 ~~10~~ percent, or for an expanding business engaged in spaceport activities, before the date of completion of the installation of the machinery and equipment.

(6) through (9) No change.

Rulemaking Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (10)(g), (14), (19), (21), (22), 212.05, 212.06, 212.08(5)(b), (7)(xx), 212.13(2), 213.255(2), (3), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, 6-19-01, 3-6-02, 4-1-08, 1-12-11,_____.

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) through (b) No change.

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application	___ 01/12
	(R. <u>07/12</u> 07/11)	
	(http://www.flrules.org/Gateway/reference.asp?No=	
	Ref- ___ 00846)	

(b) through (c) No change.

(3) through (4) No change.

(5)(a) DR-7	Consolidated Sales and Use Tax Return	
	(R. <u>07/12</u> 01/12)	___ 01/12
	(http://www.flrules.org/Gateway/reference.asp?No=	
	Ref- ___ 00848)	

(b) DR-7N	Instructions for Consolidated Sales and Use	
	Tax Return (R. <u>07/12</u> 01/12)	___ 01/12

- (http://www.flrules.org/Gateway/reference.asp?No=Ref-__00850)
- (c) DR-15CON Consolidated Summary - Sales and Use
Tax Return (R. 07/12 ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-__00848)
- (6)(a) DR-15 Sales and Use Tax Return (R. 07/12 ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-__00849)
- (b) DR-15N Instructions for DR-15 Sales and Use
Tax Returns (R. 07/12 ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-__00851)
- (c) DR-15EZ Sales and Use Tax Return (R. 07/12 ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-__00852)
- (d) DR-15EZN Instructions for DR-15EZ Sales and
Use Tax Returns (R. 07/12 ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-__00940)
- (e) through (j) No change.
- (7)(a) No change.
- (b) DR-16P* Sales and Use Tax Direct Pay Permit (R. 09/11) 01/12

(<http://www.flrules.org/Gateway/reference.asp?No=>

Ref- ____ ~~00939~~)

(c) No change.

(8) through (23) 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(2), 219.07, 288.1258, 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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7610.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2898 – 2899), to advise the public of the proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-17, FLORIDA ADMINISTRATIVE CODE
REGISTRATION AS SECONDHAND DEALER
OR SECONDARY METALS RECYCLER
REPEALING RULE 12A-17.001
AMENDING RULES 12A-17.003 AND 12A-17.005

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-17.001, F.A.C. (Scope of Rules), removes an unnecessary rule regarding the administration, enforcement, and recordkeeping requirements imposed on secondhand dealers and secondary metals recyclers that is redundant of the provisions in Section 538.11, F.S.

The proposed amendments to Rule 12A-17.003, F.A.C. (Registration), and Rule 12A-17.005, F.A.C. (Public Use Forms): (1) update procedures for secondhand dealers and secondary metals recyclers regarding fingerprinting requirements when applying for a secondhand dealer's or secondary metals recycler's certificate of registration; and (2) include in the Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers (Form DR-1S) the registration requirements for persons purchasing, consigning, or trading secondhand goods at a flea market and for auction businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

To meet the requirements of Sections 538.09(2) and 538.25(1), F.S., and provide the information necessary for the Florida Department of Law Enforcement to complete a state and federal criminal history record check, fingerprints are now required to be submitted electronically. In addition, effective July 1, 2012, Section 1, Chapter 2012-179, L.O.F., requires any person purchasing, consigning, or trading secondhand goods at a flea market to register as a secondhand dealer and limits the exemption from the registration requirement for auction businesses to only those businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

The proposed amendments to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), are necessary to update the registration requirements for secondhand dealers and secondary metals recyclers.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2903 - 2904), to advise the public of the proposed changes to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), and to provide that, if requested in writing, a rule development workshop

would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

REGISTRATION AS SECONDHAND DEALER OR SECONDARY METALS RECYCLER

RULE NO: RULE TITLE:

12A-17.001 Scope of Rules

12A-17.003 Registration

12A-17.005 Public Use Forms

PURPOSE AND EFFECT: To meet the requirements of Sections 538.09(2) and 538.25(1), F.S., and provide the information necessary for the Florida Department of Law Enforcement to complete a state and federal criminal history record check, fingerprints are now required to be submitted electronically. In addition, effective July 1, 2012, Section 1, Chapter 2012-179, L.O.F., requires any person purchasing, consigning, or trading secondhand goods at a flea market to register as a secondhand dealer and limits the exemption from the registration requirement for auction businesses to only those businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

The purpose of the proposed amendments to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), is to update the registration requirements for secondhand dealers and secondary metals recyclers.

SUMMARY: The proposed repeal of Rule 12A-17.001, F.A.C. (Scope of Rules), removes an unnecessary rule regarding the administration, enforcement, and recordkeeping requirements imposed on secondhand dealers and secondary metals recyclers that is redundant of the provisions in Section 538.11, F.S.

The proposed amendments to Rule 12A-17.003, F.A.C. (Registration), and Rule 12A-

17.005, F.A.C. (Public Use Forms): (1) update procedures for secondhand dealers and secondary metals recyclers regarding fingerprinting requirements when applying for a secondhand dealer's or secondary metals recycler's certificate of registration; and (2) include in the Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers (Form DR-1S) the registration requirements for persons purchasing, consigning, or trading secondhand goods at a flea market and for auction businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public information on how to comply with statutory registration requirements and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 213.06(1), 538.11, 538.37 FS.

LAW IMPLEMENTED: 213.053(9), (11), 538.09, 538.25, 538.31, 538.32, 539.002 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6745.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-17, FLORIDA ADMINISTRATIVE CODE
REGISTRATION AS SECONDHAND DEALER
OR SECONDARY METALS RECYCLER
REPEALING RULE 12A-17.001
AMENDING RULES 12A-17.003 AND 12A-17.005

12A-17.001 Scope of Rules.

~~(1) For the purpose of administering, collecting, and enforcing the registration of secondhand dealers or secondary metals recyclers all rules relating to Sales and Use Tax (Chapter 12A-1, F.A.C.), shall have the same effect, except in those situations where rules relating to the secondhand dealers or secondary metals recyclers have been issued to clarify specific statutory provisions.~~

~~(2) The same duties and privileges imposed by Chapter 212, F.S., upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all secondhand dealers or secondary metals recyclers.~~

Rulemaking Specific Authority 213.06(1), 538.11, 538.37 FS. Law Implemented ~~538.03~~, 538.09, 538.32 ~~538.11, 538.15, 538.18, 538.22, 538.25, 538.26~~ FS. History—New 3-15-90, Amended 11-14-91, 8-1-02, Repealed _____.

12A-17.003 Registration.

(1)(a) Any person, corporation, or other business entity must file a completed application package for registration as a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler and obtain a certificate of registration before engaging in business as a secondhand dealer or secondary metals recycler. One application package is required for each dealer. If a dealer is engaged in business as a secondhand dealer or a mail-in secondhand precious metals dealer and a secondary metals recycler, a separate application package must be filed for each type of business. If a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler is the owner of more than one business location, the application package must list each location owned by the same legal entity. The Department will issue a certificate of registration to the applicant business for each location.

(b) To apply for registration as a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler, a business entity is required to provide ~~a completed registration package to:~~

~~Account Management-Secondhand Dealer Unit~~

~~Florida Department of Revenue~~

~~P. O. Box 6480~~

~~Tallahassee, Florida 32314-6480.~~

~~(c) A completed registration package contains the following:~~

1. A completed Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S, incorporated by reference in Rule 12A-17.005, F.A.C.) for each business location.

2. A state and federal criminal history record check (background check) ~~A Federal Bureau~~

~~of Investigation (United States Department of Justice) fingerprint card completed by a local law enforcement official for each corporate officer, owner, general partner, stockholder and/or director with a controlling interest. The completed fingerprint card is necessary for a state and federal criminal history record check (background check) to be performed by the Florida Department of Law Enforcement. Form GT-200403, Electronic Fingerprint Procedures for Secondhand Dealer and Secondary Metals Recycler Applicants (incorporated by reference in Rule 12A-17.005, F.A.C.) provides instructions for meeting completing the record check requirements fingerprint card.~~

~~3. A full face photograph for each corporate officer, owner, general partner, stockholder and/or director with a controlling interest.~~

~~3.4. A check, payable to the Florida Department of Revenue, which includes payment of for the:~~

~~a. The \$6 application fee required for each business location owned or leased by the applicant; and~~

~~b. The fee imposed by the Florida Department of Law Enforcement for processing each completed fingerprint card for a state and federal criminal history record check (background check). The amount of this fee is provided at <http://www.fdle.state.fl.us>.~~

~~(d) A registration package containing the forms required by the Federal Bureau of Investigation, the Florida Department of Law Enforcement, and the Florida Department of Revenue may be obtained, without cost, by: 1) ordering the registration package at www.myflorida.com/dor/forms to be mailed to you; or, 2) calling the Florida Department of Revenue at (800) 352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West~~

~~Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Department's TDD at 1(800) 367-8331 or (850) 922-1115.~~

(2) through (3) No change.

(4)(a) No change.

(b) When there is a change in a general partner of a partnership, in the members of an association, joint venture, limited liability company, or other noncorporate entity, or in the corporate officers/directors who hold a controlling interest in a corporation, the new partner, new member, or new corporate officer/director must submit a state and federal criminal history record check (background check) as provided in Form GT-200403. ~~submit:~~

~~1. A Federal Bureau of Investigation fingerprint card completed by a local law enforcement official;~~

~~2. A full face photograph; and~~

~~3. A check, payable to the Florida Department of Revenue, for the fee imposed by the Florida Department of Law Enforcement for processing the state and federal criminal history record check (background check).~~

(5) through (6) No change.

Rulemaking Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 213.053(9), (11), 538.09, ~~538.11~~, 538.25, 538.32 ~~538.26~~ FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-18-93, 10-17-94, 3-20-96, 8-1-02, 9-15-08, 6-1-09, _____.

12A-17.005 Public Use Forms.

(1)(a) No change.

(b) Renewal applications specifically denoted by an asterisk (*) are issued by the

Department to holders of current certificates of registration as a secondhand dealer or a secondary metals recycler. A copy of a renewal application may be obtained by written request directed to:

Florida Department of Revenue

Taxpayer Services

5050 W. Tennessee St., Mail Stop 3-2000 Bldg. L

Tallahassee, Florida 32399-0112

Form Number	Title	Effective Date
(2) DR-1S	Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers (R. <u>07/12 07/09</u>)	___ 01/10
(3) *DR-1SR	Renewal Application for Secondhand Dealers and/or Secondary Metals Recyclers (R. <u>07/12 07/09</u>)	___ 01/10
(4) GT-200403	<u>Electronic Secondhand Dealers and/or Secondary Metals Recyclers Fingerprint Procedures for Secondhand Dealer and Secondary Metals Recycler Applicants Card Instructions</u> (R. <u>03/12 07/09</u>)	___ 01/10

Rulemaking Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 538.09, ~~538.11~~, 538.25, 538.31, 538.32, ~~538.36~~, ~~538.37~~, 539.002 FS. History-New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, 8-1-02, 9-28-04, 6-28-05, 9-15-08, 1-11-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6745.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2903 - 2904), to advise the public of the proposed changes to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE

COMMUNICATIONS SERVICES TAX

AMENDING RULES 12A-19.010, 12A-19.041, 12A-19.070, AND 12A-19.100

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-19.010, F.A.C. (Registration), and Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service.”

The proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service” and remove “roominghouses” as an example of a transient public lodging establishment.

The proposed amendments to Rule 12A-19.070, F.A.C. (Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods), incorporate the provisions of Chapter 2012-70, L.O.F.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), incorporate the provisions of Chapter 2012-70, L.O.F., and adopt, by reference, updates to the tax returns to include local communications services tax rates that will become effective January 1, 2013.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective July 1, 2012, sections 2 and 6, Chapter 2012-70, L.O.F.: (1) redefine “cable

service” as “video service”; (2) provide that communications services dealers who utilize one of the approved methods for assigning service addresses to a local jurisdiction cannot be denied the dealer’s collection allowance solely as a result of incorrect address assignments; and (3) provide when communications services dealers may be held liable for the net aggregate underpayment of tax and associated interest and penalties for incorrectly assigning a service address to a local taxing jurisdiction.

Sales of communications services to transient public lodging establishments, as defined by Section 509.013, F.S., are subject to tax. Effective October 1, 2012, Chapter 2012-165, L.O.F., revises the definition of “public lodging establishments” in Section 509.013, F.S., to remove roominghouses, boardinghouses, or other living or sleeping facility not otherwise classified as a hotel, motel, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under Section 509.242, F.S.

The proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), are necessary to update communications services tax rules to reflect the changes made by Chapters 2012-70 and 2012-165, L.O.F., and to adopt, by reference, updates to the local jurisdiction tax rates on the communications services tax return.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2904 - 2905), to advise the public of the proposed changes to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMMUNICATIONS SERVICES TAX

RULE NO: RULE TITLE:

12A-19.010 Registration

12A-19.041 Sales of Communications Services to a Residential Household

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods

12A-19.100 Public Use Forms

PURPOSE AND EFFECT: Effective July 1, 2012, sections 2 and 6, Chapter 2012-70, L.O.F.: (1) redefine “cable service” as “video service”; (2) provide that communications services dealers who utilize one of the approved methods for assigning service addresses to a local jurisdiction cannot be denied the dealer’s collection allowance solely as a result of incorrect address assignments; and (3) provide when communications services dealers may be held liable for the net aggregate underpayment of tax and associated interest and penalties for incorrectly assigning a service address to a local taxing jurisdiction.

Sales of communications services to transient public lodging establishments, as defined by Section 509.013, F.S., are subject to tax. Effective October 1, 2012, Chapter 2012-165, L.O.F., revises the definition of “public lodging establishments” in Section 509.013, F.S., to remove roominghouses, boardinghouses, or other living or sleeping facility not otherwise classified as a hotel, motel, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under Section 509.242, F.S.

The purpose of the proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), is to update the communications services tax rules to reflect the changes made by Chapters 2012-70 and 2012-165, L.O.F., and to adopt, by reference, updates to the local jurisdiction tax rates on the communications services tax return.

SUMMARY: The proposed amendments to Rule 12A-19.010, F.A.C. (Registration), and Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service.”

The proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service” and to remove “roominghouses” as an example of a transient public lodging establishment.

The proposed amendments to Rule 12A-19.070, F.A.C. (Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods), incorporate the provisions of Chapter 2012-70, L.O.F.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), incorporate the provisions of Chapter 2012-70, L.O.F., and adopt, by reference, updates to the tax returns to include local communications services tax rates that will become effective January 1, 2013.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has

determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing for the collection allowance and locally-imposed tax rates for the communications services tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.17(3)(a), 202.22(6)(a), 202.26(3), 202.27(1), (7), 202.28(1) FS.

LAW IMPLEMENTED: 119.071(5), 175.1015, 185.085, 202.11(1), (3), (5), (8), (10) - (13), 202.12(1), (3), 202.125(1) - (4), 202.13(2), 202.151, 202.16(2), (4), 202.17(1)-(4), (6), 202.19(1), (7), (10), 202.22(1), (4) - (6), (8), 202.23, 202.26(2), 202.27, 202.28, (2), 202.29, 202.30(3), 202.33, 202.34(1)(a), (3), (4)(c), 202.35(1) - (4) FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such

proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Heather Miller, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7104.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX

AMENDING RULES 12A-19.010, 12A-19.041, 12A-19.070, AND 12A-19.100

12A-19.010 Registration.

(1) through (2) No change.

(3)(a) No change.

(b) Persons who must register for the communications services tax include persons who provide the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video ~~cable~~ services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance, for a consideration, except as provided in paragraph (c).

(c) through (d) No change.

(4) No change.

Rulemaking Authority 202.17(3)(a), 202.22(6)(a), 202.26(3)(e), (h) FS. Law Implemented 202.11(1), ~~(5) (2), (6)~~, (8), (12), (13), 202.12(1)(b), 202.17(1)-(4), 202.22(6)(a), 202.27(6) FS. History—New 1-31-02, Amended 4-17-03, 7-16-06,_____.

12A-19.041 Sales of Communications Services to a Residential Household.

(1) No change.

(2) APPLICATION OF TAX.

(a) through (b) No change.

(c) The partial exemption for sales to a residential household does not apply to:

1. Sales of any video cable service, as defined in Section 202.11(24)(4), F.S.;
2. Sales of any direct-to-home satellite service, as defined in Section 202.11(4)(5), F.S.;

and

3. Sales of mobile communications services, as defined in Section 202.11(7), F.S.

(3) TRANSIENT PUBLIC LODGING ESTABLISHMENTS. The partial exemption for sales to residential households does not apply to sales to any residence that constitutes all or part of a transient public lodging establishment, as defined by Section 509.013, F.S.

(a) through (c) No change.

(d) Transient public lodging establishments are rented to guests whose occupancy is intended to be temporary. Examples of transient public lodging establishments include hotels, motels, bed and breakfast inns, transient apartments, ~~transient rooming houses~~, and vacation rentals.

(4) through (5) No change.

Rulemaking Authority 202.26(3)(c) FS. Law Implemented 202.125(1), 202.13(2), 202.16(4), 202.19(10), 202.34(3), 202.35(4) FS. History—New 1-31-02, Amended 2-7-11, 1-25-12,_____.

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods.

(1)(a) Dealers of communications services that are required to collect local

communications services taxes must assign each customer service address to a specific local taxing jurisdiction for purposes of determining the appropriate local communications services tax rate to be applied to sales made to that address. Local communications services taxes must be collected and remitted for each service address in accordance with the service address assignments in the effective communications services tax Address/Jurisdiction Database, which is the official electronic database maintained by the Department that is posted 90 days prior to its adoption and becomes effective every January 1 and July 1, as discussed in Rule 12A-19.071, F.A.C. ~~Except as otherwise provided in subsection (2), a dealer is liable for any additional local communications services taxes, interest, and penalties that are due as a result of assigning service addresses to incorrect local taxing jurisdictions when the correct local taxing jurisdiction's tax rate exceeds the incorrectly assigned local taxing jurisdiction's tax rate.~~

(b)1. In determining the liability for any additional local communications services taxes, interest, and penalties of a dealer who does not use a method as described in paragraph (2)(a) and has failed to assign one or more a service addresses address to the correct local taxing jurisdiction, the Department will take into account all underpayments and overpayments of the local tax. ~~any amount of local communications services tax that was collected and erroneously assigned by the dealer to another local taxing jurisdiction. The Department will reallocate and redistribute such amounts between the local taxing jurisdictions involved to apply the payment of any additional local communications services taxes to the correct local taxing jurisdiction. Interest and penalties will be applied only to the additional local communications services taxes due on the sale after crediting the dealer with the amount of local communications services tax collected that was erroneously based on an assignment to an incorrect local taxing jurisdiction.~~

2. The dealer will be held liable for the net aggregate underpayment of tax and associated

interest and penalties for incorrectly assigning one or more service addresses when:

a. The dealer does not use or employ one or more of the methodologies described in paragraph (2)(a) for assigning service addresses to local taxing jurisdictions:

b. The Department determines that there are misallocations of the local communications services taxes collected by the dealer between local taxing jurisdictions during the tax period(s) examined; and

c. The dealer's assignment of service addresses to local taxing jurisdictions results in a combined net aggregate underpayment of local communications services tax during the tax period(s) examined.

3. In addition, a specific penalty of 10 percent of any tax collected but reported to an incorrect jurisdiction as a result of an incorrect address assignment, not to exceed \$10,000 per return, will be imposed on any dealer that does not use a database described in paragraph (2)(a).

(c) No change.

(2)(a) A dealer will not be liable for any additional local communications services taxes, interest, or penalty due solely because of an error in assigning a service address to a local taxing jurisdiction if the dealer exercised due diligence in employing one or more of the following methodologies in assigning that service address:

1. The Address/Jurisdiction Database;
2. A database that has been certified by the Department, as provided in Rule 12A-19.072, F.A.C.;
3. An enhanced zip code method, as discussed in Rule 12A-19.073, F.A.C.; or
4. A database that, upon audit by the Department, is determined to have met the accuracy rate criterion required for certification under Rule 12A-19.072, F.A.C.

(b) through (e) No change.

(3) Collection Allowance.

(a) Any communications services dealer that employs one or more of the methodologies described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .75 percent on taxes collected on service addresses assigned using the described methodologies and will not be denied the collection allowance solely because the dealer assigned one or more addresses to an incorrect local taxing jurisdiction. Any communications services dealer that employs any methodology that is not described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .25 percent on taxes collected on service addresses assigned using such other methodology. A communications services dealer who is not liable for an assessment of additional local communications services taxes, interest, and penalties by reason of employing a database that is found upon audit to meet the accuracy criteria for certification, as described in subparagraph (2)(a)4., is entitled to a collection allowance of .25 percent until such time as an application for certification of the database is made and approved.

(b) through (c) No change.

Rulemaking Authority 202.26(3)(b), (f), (g), 202.28(1) FS. Law Implemented 202.22(1), (4), (5), (6), (8), 202.23, 202.28, 202.34(1)(a), 202.35(3) FS. History—New 11-14-05, Amended 12-20-07,

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12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the

administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department’s electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
01/13	<u>January 2013 –</u>	<u>January 1, 2013 –</u>
07/12	<u>July 2012 – December 2012</u>	<u>July 1, 2012 – December 31, 2012</u>
01/12	January 2012 – <u>June 2012</u>	January 1, 2012 – <u>June 30, 2012</u>
07/11	July 2011 – December 2011	July 1, 2011 – December 31, 2011
01/11	January 2011 – June 2011	January 1, 2011 – June 30, 2011
08/10	August 2010 – December 2010	August 1, 2010 – December 31, 2010
01/10	January 2010 – July 2010	January 1, 2010 – July 31, 2010
06/09	June 2009 – December 2009	June 1, 2009 – December 31, 2009
01/09	January 2009 – May 2009	January 1, 2009 – May 31, 2009
09/08	September 2008 – December 2008	September 1, 2008 – December 31, 2008
06/08	June 2008 – August 2008	June 1, 2008 – August 31, 2008
05/08	May 2008	May 1, 2008 – May 31, 2008
01/08	January 2008 – April 2008	January 1, 2008 – April 30, 2008
09/07	September 2007 – December 2007	September 1, 2007 – December 31, 2007

06/07	June 2007 – August 2007	June 1, 2007 – August 31, 2007
02/07	February 2007 – May 2007	February 1, 2007 – May 31, 2007
01/07	January 2007	January 1, 2007 – January 31, 2007
06/06	June 2006 – December 2006	June 1, 2006 – December 31, 2006
01/06	January 2006 – May 2006	January 1, 2006 – May 31, 2006
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 2005
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004
10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002

12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001
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Form Number	Title	Effective Date
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(3) No change.

(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 01/13)</u>	_____
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(b) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 07/12)</u>	_____
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(a) through (ii) renumbered (c) through (kk) No change.

(5) DR-700019	Communications Services Use Tax Return <u>(R. 07/12 08/10)</u>	_____ <u>02/11</u>
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http://www.flrules.org/Gateway/reference.asp?No=Ref-__00089)

(6) through (12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.22(6)(a), 202.26(3)(a), (c), (d), (e), (j), 202.27(1), (7) FS. Law Implemented 119.071(5), 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.29, 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History—New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07, 11-6-07, 12-20-07, 1-28-08, 1-27-09, 1-11-10, 6-28-10 (3), 6-28-10 (5), 2-7-11, 1-25-12,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Heather Miller, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7104.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2904 - 2905), to advise the public of the proposed changes to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0191, 12C-1.0193, 12C-1.0221, AND 12C-1.051

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide when unused capital investment tax credits may be carried forward through the 30th tax year after commencement of operations.

The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit): (1) update the Department's rules to reflect the changes provided in Section 7, Chapter 2012-117, L.O.F., which require that applications for the credit be filed with the Department of Agriculture and Consumer Services.; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) remove the obsolete application for the Florida Renewable Energy Production Credit; (2) adopt, by reference, updates to the form used for notifying the Department of Revenue of a transfer of a Florida Energy Tax Credit; and (3) adopt, by reference, updates to Florida corporate income tax returns and instructions.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), adopt, by reference, updated Treasury Department Circular Number 230.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 1, Chapter 2011-223, L.O.F., allows certain unused capital investment tax credits to be carried forward through the 30th tax year after commencement of operations. The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), are necessary to include this provision in the rule.

Section 7, Chapter 2012-117, L.O.F., effective July 1, 2012, requires an application to be filed with the Department of Agriculture and Consumer Services for an allocation of an annual tax credit against corporate income tax based on the taxpayer's production and sale of electricity from a Florida renewable energy facility. The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), and to Rule 12C-1.051, F.A.C. (Forms), are necessary to: (1) update the Department's rules to include the provisions of Section 7, Chapter 2012-117, L.O.F., and provide that applications for the credit will be filed with the Department of Agriculture and Consumer Services; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), are necessary to adopt, by reference, updates to Treasury Department Circular Number 230.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2910), to advise the public of the proposed changes to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0191 Capital Investment Tax Credit Program

12C-1.0193 Florida Renewable Energy Production Credit

12C-1.0221 Returns, Notices, and Elections; Signing and Verification

12C-1.051 Forms

PURPOSE AND EFFECT: Section 1, Chapter 2011-223, L.O.F., allows certain unused capital investment tax credits to be carried forward through the 30th tax year after commencement of operations. The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), are necessary to include this provision in the rule.

Section 7, Chapter 2012-117, L.O.F., effective July 1, 2012, requires an application to be filed with the Department of Agriculture and Consumer Services for an allocation of an annual tax credit against corporate income tax based on the taxpayer's production and sale of electricity from a Florida renewable energy facility. The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), and to Rule 12C-1.051, F.A.C. (Forms), are necessary to: (1) update the Department's rules to include the provisions of Section 7, Chapter 2012-117, L.O.F., and provide that applications for the credit will be filed with the Department of Agriculture and Consumer Services; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), are necessary to adopt, by reference, updates to Treasury Department

Circular Number 230.

SUMMARY: The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide when unused capital investment tax credits may be carried forward through the 30th tax year after commencement of operations.

The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit): (1) update the Department's rules to reflect the changes provided in Section 7, Chapter 2012-117, L.O.F., which require that applications for the credit be filed with the Department of Agriculture and Consumer Services; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), adopt, by reference, updated Treasury Department Circular Number 230.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) remove the obsolete application for the Florida Renewable Energy Production Credit; (2) adopt, by reference, updates to the form used for notifying the Department of Revenue of a transfer of a Florida Energy Tax Credit; and (3) adopt, by reference, updates to Florida corporate income tax returns and instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the

Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for the administration of the corporate income tax credits, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 213.06(1), 220.191(8), 220.192(5), (7), 220.193, 220.196(4), 220.51, 1002.395(13) FS.

LAW IMPLEMENTED: 119.071(5), 212.08(5)(p), 213.35, 213.755, 220.02(3), (8), 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.19, 220.191, 220.192, 220.193, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance

and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jennifer Ensley, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7659.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0191, 12C-1.0193, 12C-1.0221, AND 12C-1.051

12C-1.0191 Capital Investment Tax Credit Program.

(1)(a) No change.

(b)1. The maximum annual amount of Capital Investment Tax Credit is limited to 5 percent of the certified eligible capital costs of the qualifying project, for a period not to exceed 20 years, beginning with the commencement of the project's operations. The tax credit may not be carried forward or backward, except as noted in subparagraph 2. The sum of all capital investment tax credits cannot exceed 100 percent of the eligible capital costs of the project.

2. A carryover of credit is available for a qualifying business that invested at least \$100 million and is eligible to claim the credit against 100 percent of its corporate income tax liability pursuant to Section 220.191(2)(a)1., F.S. Unused credits from the 20-year credit period may be claimed in the 21st through 30th tax years after commencement of operations of such qualifying business, as long as the unused amount results from an insufficient tax liability on the part of the qualifying business.

(2) through (6) No change.

Rulemaking Authority 213.06(1), 220.191(8), 220.51 FS. Law Implemented 220.191 FS.

History—New 8-4-05, Amended 4-5-07, 4-26-10, _____.

12C-1.0193 Florida Renewable Energy Production Credit.

(1) A Florida Renewable Energy Production Credit is provided in Section 220.193, F.S., for the sale of electricity from a new Florida renewable energy facility ~~operationally placed in service after May 1, 2006, and for increases of more than five percent (5%) in the production and sale of electricity from renewable energy sources at an existing Florida renewable energy facility.~~ The terms “sale” and “sold” include the use of electricity by the producer of such electricity from renewable sources if such use reduces the amount of electricity that the producer would otherwise have to purchase. ~~To claim the credit, An an application Application for Florida Renewable Energy Production Credit Allocation (Form F-1193, incorporated by reference in Rule 12C-1.051, F.A.C.); must be filed with the Department of Agriculture and Consumer Services on or before February 1 of each year for an allocation of credit. The allocation of credit is based upon the applicant’s increased production and sales of electricity and the increased production and sales of all applicants. On or before March 1 of each year, the Department of Agriculture and Consumer Services will notify eligible taxpayers by letter of the certified amount of credit that is allocated to them and the tax year in which the taxpayer may claim the credit on its Florida corporate income tax return. A copy of the certification ~~this letter~~ must be attached to the taxpayer’s Florida corporate income tax return on which the credit is taken.~~

(2) ~~Taxpayers that increase both production and sales of renewable electrical energy by more than five percent (5%) over the 2005 calendar year for each expanded Florida renewable energy facility may submit one application each year for each qualifying facility. For a new Florida renewable energy facility, the credit is based on the taxpayer’s sale of the facility’s entire electrical production. A taxpayer may not transfer its right to apply for a credit to another taxpayer. Florida Renewable Energy Production credits may only be taken once against the~~

~~Florida corporate income tax, may not be carried back to an earlier tax year, and must be taken in the order prescribed in Section 220.02(8), F.S. A taxpayer claiming the credit on its Florida corporate income tax return must add back the amount of the credit to its Florida net income. Credit amounts that are not granted in full or in part due to the annual \$5 million limitation are not eligible for a Florida Renewable Energy Production credit in later years.~~

~~(2)~~(3) The Florida Renewable Energy Production Credit may be transferred in a merger or acquisition. In addition, unused credits may be transferred one time (outside a merger or acquisition) to another taxpayer in whole or in increments of not less than 25 percent of the remaining credit. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer the unused renewable energy production credits available for transfer. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee by letter of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/~~Franchise and Emergency Excise~~ Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed. The transfer of a credit does not affect the time for taking the credit, and the credit is subject to the same limitations imposed on the transferor.

~~(3)~~(4) Every taxpayer claiming a Florida Renewable Energy Production Credit must retain documentation that substantiates and supports the credit, a copy of the certification letter received from the Department of Agriculture and Consumer Services certifying the amount of ~~granting~~ the credit, a schedule reconciling all credit carryovers, transfers, and sales, a schedule

tracking the credit amounts allocated and the use of such credits, and, if applicable a copy of the letter from the Department allowing the transfer until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Documentation to substantiate and support the credit includes: production records or other evidence of the amount of electricity produced; evidence of the increase in production and sales of electricity over the 2011 ~~2005~~ calendar year by an expanded facility; and evidence establishing that the electricity was produced from renewable energy.

Rulemaking Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 220.02(8), 220.03(1), 220.131, 220.193, 220.21 FS. History-New 4-26-10,_____.

12C-1.0221 Returns, Notices, and Elections; Signing and Verification.

(1)(a) through (b) No change.

(c) Form F-7004 shall be signed by a person authorized by the taxpayer to request such extension. Such person must be an individual authorized under paragraph (a) or (b) to sign the taxpayer's return; a person currently enrolled as an agent under Treasury Department Circular Number 230 (Rev. 8-2011 ~~6-2005~~, herein incorporated by reference, Effective 01/08) to practice before the Internal Revenue Service; an attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia; or any certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia.

(d) through (e) No change.

(2) through (5) No change.

Rulemaking Authority 213.06(1), 220.51 FS. Law Implemented 213.755, 220.221, 220.23(2)(a)

FS. History—New 3-5-80, Amended 12-18-83, Formerly 12C-1.221, Amended 12-21-88, 4-8-92, 1-28-08, 4-26-10,_____.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) F-851	Corporate Income/Franchise and Emergency Exeise Tax Affiliations Schedule (R. <u>01/13</u> 01/10)	___ <u>01/12</u>
(3)(a) F-1065	Florida Partnership Information Return (R. <u>01/13</u> 01/12) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00831)	___ <u>01/12</u>
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/13</u> 01/12) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00832)	___ <u>01/12</u>
(4) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/13</u> 01/12) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00833)	___ <u>01/12</u>
(5)(a) F-1120	Florida Corporate Income/Franchise and Emergency Exeise Tax Return (R. <u>01/13</u> 01/12) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00834)	___ <u>01/12</u>

- (b) F-1120N F-1120 Instructions – Corporate Income/Franchise
and ~~Emergency Exeise~~ Tax Return for taxable years
beginning on or after January 1, 2012 ~~2011~~
(R. 01/13 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00835)
- (6) F-1120ES Declaration/Installment of Florida Estimated
Income/Franchise Tax For Taxable Year Beginning
on or after January 1, 2013 ~~2012~~ (R. 01/13 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00836)
- (7)(a) F-1120X Amended Florida Corporate Income/Franchise and
~~Emergency Exeise~~ Tax Return (R. 01/13 ~~01/10~~) ___ 01/10
- (b) F-1120XN Instructions for Preparing Form F-1120X Amended
Florida Corporate Income/Franchise and ~~Emergency~~
~~Exeise~~ Tax Return (R. 01/13 ~~01/10~~) ___ 01/10
- (8) F-1122 Authorization and Consent of Subsidiary Corporation
to be Included in a Consolidated Income and ~~Emergency~~
~~Exeise~~ Tax Return (R. 01/13 ~~01/09~~) ___ 01/09
- (9) through (10) No change.
- (11)(a) F-1193 ~~Application for Florida Renewable Energy~~
~~Production Credit Allocation~~ (R. ~~01/11~~) 01/11
- (b) F-1193T Notice of Intent to Transfer A Florida Energy Tax
Credit (R. 07/12 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00837)

(12) F-2220 Underpayment of Estimated Tax on Florida Corporate
Income/Franchise and ~~Emergency Excise~~ Tax
(R. 01/13 ~~01/09~~) _____ ~~01/09~~

(13) F-7004 Florida Tentative Income/Franchise and ~~Emergency~~
~~Excise~~ Tax Return and Application for Extension of
Time to File Return (R. 01/13 ~~01/12~~) _____ ~~01/12~~
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00838)

Rulemaking Authority 213.06(1), 220.192(7), 220.193(4), 220.196(4), 220.51, 1002.395(13) FS.
Law Implemented 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.14,
220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875,
220.1895, 220.1896, 220.1899, 220.19, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196,
220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33,
220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801,
220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS. History—New
9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-
92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-
06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 4-26-10(12)(a),(b), 4-26-10(13)(a),(b), 6-28-10, 1-12-11, 6-
6-11, 1-25-12,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Jennifer Ensley, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-7659.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2910), to advise the public of the proposed changes to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,
AVIATION FUELS, AND POLLUTANTS
AMENDING RULES 12B-5.020, 12B-5.130 AND 12B-5.150

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-5.020, F.A.C. (Definitions; Specific Exemptions), update the definition of “gasohol” to be consistent with the definition of alternative fuel.

The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds), clarify that, consistent with the provisions of Section 206.41(4)(c)2., F.S., motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid.

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used by the Department in the administration of taxes imposed on fuels and pollutants.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 13, Chapter 2012-117, L.O.F., effective July 1, 2012, defines the term “alternative fuel.” The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants) are necessary to: (1) update the definitions that define the term “alternative fuel,” as amended by section 13, Chapter

2012-117, L.O.F.; (2) clarify that motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid; and (3) update changes to forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2906 - 2907), to advise the public of the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS, AVIATION FUELS,
AND POLLUTANTS

RULE NO: RULE TITLE:

12B-5.020 Definitions; Specific Exemptions

12B-5.130 Refunds

12B-5.150 Public Use Forms

PURPOSE AND EFFECT: Section 13, Chapter 2012-117, L.O.F., effective July 1, 2012, defines the term “alternative fuel.” The purpose of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), is to: (1) update the definitions that define the term “alternative fuel,” as amended by section 13, Chapter 2012-117, L.O.F.; (2) clarify that motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid; and (3) update changes to forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

SUMMARY: The proposed amendments to Rule 12B-5.020, F.A.C. (Definitions; Specific Exemptions), update the definition of “gasohol” to be consistent with the definition of alternative fuel.

The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds), clarify that, consistent with the provisions of Section 206.41(4)(c)2., F.S., motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid.

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used by the Department in the administration of taxes imposed on

fuels and pollutants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for updating administrative rules to reflect statutory definitions and to update tax returns relating to fuels and pollutants tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 206.14(1), 206.485(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 213.06(1), 213.755(8), 526.206 FS.

LAW IMPLEMENTED: 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.62, 206.64, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.97, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, 213.755, 215.26, 526.203 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6745.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,
AVIATION FUELS, AND POLLUTANTS
AMENDING RULES 12B-5.020, 12B-5.130 AND 12B-5.150

12B-5.020 Definitions; Specific Exemptions.

(1) DEFINITIONS.

(a) through (e) No change.

(f) “Gasohol” means a mixture of gasoline blended with ethanol or gasoline blended with an alternative fuel, as defined in Section 526.203, F.S. and includes what is commonly known and sold as ethanol-blended fuel, which contains not more than 91 percent gasoline by volume, and the ethanol or alternative fuel content must not be less than nine percent by volume.

(g) through (k) No change.

(2) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 213.06(1), 526.206 FS.

Law Implemented 206.41(4)(b), 206.62, 206.874, 206.97, 526.203 FS. History—New 7-1-96,

Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09,_____.

12B-5.130 Refunds.

(1) FUEL USED FOR AGRICULTURAL, AQUACULTURAL, COMMERCIAL FISHING, AND COMMERCIAL AVIATION PURPOSES.

(a)1. Any person who purchases motor fuel used in any tractor, vehicle, or other equipment that is used exclusively on a farm for planting, cultivating, harvesting, or processing farm products for sale, may obtain a refund of local option, state comprehensive enhanced transportation system, and fuel sales taxes paid under Sections 206.41(1)(e), (f), and (g), F.S. This provision includes motor vehicles licensed as a “goat,” as provided in Section 320.08(3)(d), F.S.

2. through 3. No change.

(b) through (c) No change.

(2) through (5) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.41(4), (5), 206.43(5), (6), 206.64, 206.8745, 206.97, 213.255(2), (3), 215.26 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 1-27-09, 6-1-09, 7-20-11, 1-25-12,_____.

12B-5.150 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department and are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-138	Application for Fuel Tax Refund – Agricultural Agriculture , Aquacultural, Commercial Fishing or Commercial Aviation Purposes (R. 01/13 01/12)	___ 01/12
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00853)	

(3) through (9) No change.

- (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00861)
- (22) DR-309631N Instructions for Filing Terminal Supplier Fuel
 Tax Return (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00862)
- (23) DR-309632 Wholesaler/Importer Fuel Tax Return
 (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00877)
- (24) DR-309632N Instructions for Filing Wholesaler/Importer Fuel
 Tax Return (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00863)
- (25) DR-309633 Mass Transit System Provider Fuel Tax Return
 (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00878)
- (26) DR-309633N Instructions for Filing Mass Transit System Provider
 Fuel Tax Return (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00864)
- (27) DR-309634 Local Government User of Diesel Fuel Tax
 Return (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00879)
- (28) DR-309634N Instructions for Filing Local Government User
 of Diesel Fuel Tax Return (R. 01/13 01/12) _____ 01/12
 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___00865)

- (29) DR-309635 Blender/Retailer of Alternative Fuel Tax Return
(R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00880)
- (30) DR-309635N Instructions for Filing Blender/Retailer of
Alternative Fuel Tax Return (R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00866)
- (31) DR-309636 Terminal Operator Information Return
(R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00867)
- (32) DR-309636N Instructions for Filing Terminal Operator
Information Return (R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00868)
- (33) DR-309637 Petroleum Carrier Information Return
(R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00869)
- (34) DR-309637N Instructions for Filing Petroleum Carrier
Information Return (R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00870)
- (35) DR-309638 Exporter Fuel Tax Return (R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00871)
- (36) DR-309638N Instructions for Filing Exporter Fuel Tax Return
(R. 01/13 01/12) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00872)

(37) DR-309639 Application for Refund of Tax Paid on Undyed
Diesel Used for Off-Road or Other Exempt
Purposes (with Instructions) (R. 01/13 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00873)

(38) DR-309640 Application for Refund of Tax Paid on Undyed
Diesel Consumed by Motor Coaches During Idle
Time in Florida (R. 01/13 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00874)

~~(39) DR-309645 2012 Refundable Portion of Local Option and
State Comprehensive Enhanced Transportation
System (SCETS) Tax (R. ~~01/12~~) 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00875)~~

~~(39)~~(40) DR-309660 Application for Pollutants Tax Refund
(R. 01/13 ~~01/12~~) ___ 01/12
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00876)

~~(40)~~(41) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8), 526.206 FS.
Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028,
206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.86,
206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9942,
206.9943, 212.0501, 213.255, 213.755, 526.203 FS. History-New 11-21-96, Amended 10-27-98,
5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-11, 7-20-
11, 1-25-12,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6745.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2906 - 2907), to advise the public of the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.003
REPEALING RULE 12B-8.002

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12B-8.002, F.A.C. (Tax on Wet Marine and Transportation Insurance), removes an unnecessary rule that is redundant of Section 624.510, F.S.

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), adopts, by reference, changes to forms used by the Department in the administration of the insurance premium taxes, fees, and surcharges.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), are necessary to repeal a rule redundant of Section 624.510, F.S., and to adopt, by reference, changes to forms used by the Department in the administration of the insurance premium taxes, fees, and surcharges.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2908), to advise the public of the proposed changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INSURANCE PREMIUM TAXES, FEES AND SURCHARGES

RULE NO: RULE TITLE:

12B-8.002 Tax on Wet Marine and Transportation Insurance

12B-8.003 Tax Statement; Overpayments

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12B-7, F.A.C. (Severance Taxes, Fees, and Surcharges), is to: (1) repeal unnecessary definitions of terms; and (2) adopt, by reference, changes to forms used in the administration of the severance taxes, fees, and surcharges.

SUMMARY: The proposed repeal of Rule 12B-7.003, F.A.C. (Definitions), and Rule 12B-7.022, F.A.C. (Definitions), remove unnecessary definitions of terms for which statutory definitions are provided or terms that are no longer used in the administration of the tax on the production of oil, gas, or sulfur or on the severance of solid minerals, heavy minerals, or phosphate rock.

The proposed amendments to Rule 12B-7.004, F.A.C. (Rate of Tax; Oil, Gas and Sulfur), provide for the reporting of the tax on the production mature field recovery oil, imposed by Section 211.02, F.S., as amended by Section 6, Chapter 2012-32, L.O.F.

The proposed amendments to Rule 12B-7.008, F.A.C. and Rule 12B-7.026, F.A.C. (Public Use Forms), adopt changes to tax returns used in the administration of the tax on oil production in Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for updating forms relating to the administration of insurance premium tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99 (2010), 440.51, 443.1216, 624.11, 624.402, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.5094, 624.510, 624.5105, 624.51055, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032, FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6196.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.003
REPEALING RULE 12B-8.002

12B-8.002 Tax on Wet Marine and Transportation Insurance.

~~(1) A tax is imposed on the gross underwriting profit on “wet marine and transportation insurance” as defined in Section 624.607(2), F.S., which is written in Florida during the preceding calendar year. Tax at the rate of 3/4 of 1 percent shall be applied on each insurer’s gross underwriting profit on wet marine and transportation insurance as defined in Section 624.607(2), F.S.~~

~~(2) Gross underwriting profit shall be ascertained by deducting from the net premiums on such wet marine and transportation insurance contracts the net losses paid during such calendar year under such contracts. For the purpose of this subsection, net premiums shall mean gross premiums less all return premiums and premiums for reinsurance. Net losses shall mean gross losses paid less salvage and recoveries on reinsurance assigned or transferred.~~

~~(3)(a) An annual return is required to be filed on or before March 1 of each year showing the gross underwriting profits for the preceding year.~~

~~(b) Payment of taxes due for each year is required to be made at the time the taxpayer files its annual return.~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 624.510 ~~213.05, 624.509-511,~~

_____.

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) through (3) No change.

Form Number	Title	Effective Date
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(4)(a) DR-907	Florida Insurance Premium Installment Payment (R. <u>01/13</u> 01/12)	___ <u>01/12</u>
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00826)

(b) DR-907N	Instructions for Filing Insurance Premium Installment Payment (Form DR-907) (R. <u>01/13</u> 01/12)	___ <u>01/12</u>
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00826)

(5)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <u>2012</u> 2011 (R. <u>01/13</u> 01/12)	___ <u>01/12</u>
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00827)

(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. <u>01/13</u> 01/12)	___ <u>01/12</u>
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00828)

(6) DR-350900	<u>2012</u> 2011 Insurance Premium Tax Information	
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for Schedules XII and XIII, DR-908

(R. 01/13 ~~01/12~~)

___ ~~01/12~~

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00829)

Rulemaking Authority 213.06(1) FS. Law Implemented 92.525, 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99 (2010), 440.51, 443.1216, 624.11, 624.402, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032, FS., History–New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 1-12-11, 1-25-12,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 717-6196.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2908), to advise the public of the proposed changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-2, FLORIDA ADMINISTRATIVE CODE
INTANGIBLE PERSONAL PROPERTY TAX
AMENDING RULES 12C-2.004, 12C-2.010 AND 12C-2.0115

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-2.004, F.A.C. (Property Subject to Tax – Governmental Leasehold Estates and Nonrecurring), Rule 12C-2.010, F.A.C. (Valuations), and to Rule 12C-2.0115, F.A.C. (Public Use Forms): (1) include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F.; (2) provide that the Valuation Factor Tables used to calculate the annual tax on governmental leasehold estates will be published annually in Taxpayer Information Publications and posted to the Department’s Internet site; and (3) adopt, by reference, updates to the tax return used to report the annual tax on governmental leasehold estates that reflect law changes and remove provisions that limit the tax return to a single year.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Sections 1 and 2, Chapter 2012-32, L.O.F., expanded the public purpose exemption from ad valorem taxes to the governmental leasehold intangible tax. The exemption applies retroactively to all governmental leaseholds in existence on January 1, 2011. The purpose of the proposed amendments to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F., and to adopt, by reference, changes to the tax return used to report the annual tax on governmental leasehold estates.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 8, 2012

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2911 - 2912), to advise the public of the proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INTANGIBLE PERSONAL PROPERTY TAX

RULE NO: RULE TITLE:

12C-2.004 Property Subject to Tax – Governmental Leasehold Estates and Nonrecurring

12C-2.010 Valuations

12C-2.0115 Public Use Forms

PURPOSE AND EFFECT: Sections 1 and 2, Chapter 2012-32, L.O.F., expanded the public purpose exemption from ad valorem taxes to the governmental leasehold intangible tax. The exemption applies retroactively to all governmental leaseholds in existence on January 1, 2011.

The purpose of the proposed amendments to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F., and to adopt, by reference, changes to the tax return used to report the annual tax on governmental leasehold estates.

SUMMARY: The proposed amendments to Rule 12C-2.004, F.A.C. (Property Subject to Tax – Governmental Leasehold Estates and Nonrecurring), Rule 12C-2.010, F.A.C. (Valuations), and to Rule 12C-2.0115, F.A.C. (Public Use Forms): (1) include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F.; (2) provide that the Valuation Factor Tables used to calculate the annual tax on governmental leasehold estates will be published annually in Taxpayer Information Publications and posted to the Department’s Internet site; and (3) adopt, by reference, updates to the tax return used to report the annual tax on governmental leasehold estates that reflect law changes and remove provisions that limit the tax return to a single tax year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule 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 Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities with the administration of the governmental leasehold estates, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. 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: 199.202, 213.06(1) FS.

LAW IMPLEMENTED: 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.103(7), 199.133, 199.135 (2005), 199.143, 199.145, 199.155, 199.183, 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined.]

PLACE: [To be determined.]

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance

and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8347. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-2, FLORIDA ADMINISTRATIVE CODE
INTANGIBLE PERSONAL PROPERTY TAX
AMENDING RULES 12C-2.004, 12C-2.010 AND 12C-2.0115

12C-2.004 Property Subject to Tax – Governmental ~~Government~~ Leasehold Estates and Nonrecurring.

(1) Tax on Governmental ~~Government~~ Leasehold Estates – All leases of government-owned property are subject to an annual tax if rental payments are due as consideration for the lease, unless the lessee serves or performs a governmental, municipal, or public purpose or function as defined in Section 196.012, F.S. ~~(The tax is imposed every year.)~~

(2) through (4) No change.

Rulemaking Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(a), (b), 199.133, 199.135 (2005), 199.143, 199.145, 199.155, 199.183 FS. History–New 4-17-72, Revised 12-20-73, Amended 5-8-79, Formerly 12C-2.04, Amended 11-21-91, 5-18-93, 10-9-01, 1-28-08,____.

12C-2.010 Valuations.

(1) Leases of Governmental Property.

(a) The value of a lease of governmental property described in subsection 12D-3.003(3), F.A.C., is determined by valuing the lease payments for the remaining term of the lease on January 1 of the tax year, subject to the following provisions:

1. The lease payments to be valued do not include any amount for taxes, interest, insurance, repairs, maintenance, exclusive franchise or concession fees, costs of utilities, or similar charges required to be paid the lessor, and include only the amount paid by the lessee for the use of real or tangible property provided or owned by the governmental lessor, whether designated as a fixed sum, a percentage, or a variable amount.

2. If lease payments are nominal amounts, such as \$1 or \$10 per year, or the payments are significantly less than a fair market rental for the property, the annual fair market rent which would be paid by the lessee in the open market for comparable property under similar terms and circumstances will be the lease payment to be valued.

3. If payments required by the lease are based on some factor other than the passage of time, such as a percentage of sales or profits, the lease payment to be valued will be based on the average annual rent actually paid by the lessee in prior years, providing the amount so determined is not nominal or significantly less than the fair market rental for the property. The average annual rental used will be determined from the amounts paid by the lessee for a period not to exceed the previous five years. If the average so determined is nominal or is significantly less than fair market value for the property, the lease payment to be discounted will be the annual fair market rental for the property.

4. Otherwise, the ~~annualized~~ ~~analyzed~~ lease payment required under the lease is the amount to be valued. The valuation factors to be used ~~are shall be~~ based on the Federal Reserve discount rate – Atlanta – on the last business day of the preceding year, plus one percent.

Valuation Factor Tables determined by the Department based on that discount rate, plus one percent, are annually published in a Taxpayer Information Publication and posted to the Department's Revenue Law Library at www.myflorida.com/dor.

5. The period for which the lease payments are to be valued ~~is shall be~~ the number of years remaining under the lease, exclusive of renewal options, as of January 1 of the tax year. The year in which the lease will expire ~~is to shall~~ be considered a full year for the purpose of this rule.

6. If the final period for which the lease payment is to be valued is less than a year, the lease payment ~~is to shall~~ be valued using the 1 year value factor and the tax apportioned based on the number of months during the year that the lease is in effect.

(b) through (c) No change.

(2) No change.

Rulemaking Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 199.155 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 8-8-78, 12-31-80, Formerly 12C-2.10, Amended 11-21-91, 5-18-93, 10-9-01, 1-28-08,_____.

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) No change.

Form Number	Title	Effective Date
(2) DR-601G	Governmental Leasehold Intangible Personal Property Tax Return for 2012 Tax Year (R. <u>01/13</u> 01/12)	___ 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00947)

(3) through (5) No change.

Rulemaking Authority 199.202(2), 213.06(1) FS. Law Implemented 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.052 (2005), 199.103(7)(2005), 199.135 (2005), 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS. History-New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06, 1-28-08, 1-27-09, 1-31-10, 2-7-11, 1-29-12,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be determined.]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2911 - 2912), to advise the public of the proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.