



Florida Department of Revenue
Tax Information Publication

TIP

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New Law Allows Statistical Sampling of Fixed Assets

What does this new law do?

Currently, tax law does not allow records of fixed assets to be sampled. Beginning July 1, 2007, the Department of Revenue (the Department) and taxpayers may agree to statistically sample adequate and voluminous records of fixed assets. Adequate and voluminous records of fixed assets may be statistically sampled when conducting a compliance audit or when reviewing a refund application.

What are "adequate and voluminous records"?

The records will be considered "adequate" if they constitute sufficient and accurate books and accounts that are ordinarily maintained by the average prudent business person engaged in the same type of activity as the taxpayer and that can be used to determine the correct amount of any tax liability or refund for the entire period to be sampled. See Rule 12-3.0012(3), Florida Administrative Code (F.A.C.).

Adequate records are considered voluminous when the records maintained by a taxpayer are so numerous and extensive that review of the records would be most effectively and expeditiously accomplished by using a sampling methodology. See Section 213.35, Florida Statutes (F.S.), and Rule 12-3.0012(4), F.A.C.

Are there other requirements?

Yes. In regards to both a compliance audit and a refund application, the taxpayer and the Department must agree in writing to statistically sample the records of fixed assets. In addition, the agreement must state the statistical sampling methodology that will be used. Once signed, the agreement is final and conclusive with respect to the method of statistically sampling the fixed assets records, and a detail audit of fixed assets may not be requested.

Refund

For refund applications submitted based on statistically sampling fixed assets, the sample conducted by the taxpayer must reflect both overpayments and underpayments found in the sample. In addition, the following applies to refund applications generally:

- Unless specifically authorized by statute or rule, taxpayers who are entitled to a refund from a dealer **must request** the refund from the dealer.
- Refund requests must be filed within three (3) years of the date the tax was paid.

- Taxpayers should retain the documentation concerning any refund received for as long as required by Section 95.091(3), F.S., which is three (3) years after the refund is made.
- A listing of the documents sampled should also be retained, as well as all the documents and records concerning the refund for the period included in the refund.

As with all refund applications, statistically sampling fixed assets by the taxpayer to establish the amount of a refund or deficiency does not prevent the Department from performing a compliance audit of the taxpayer's records over the same period.

This change in the law applies to all pending sales and use tax audits or other actions or inquiries, except those currently under protest or in litigation. In addition, this change does not create any right to a refund of taxes previously assessed and paid.

Contact the Refund Subprocess of the Department at 850-488-8937 for further information regarding the requirements for filing a refund application based on a statistical sample of fixed assets as provided in Section 212.12(6)(c)3., F.S.

Reference: Sections 25 and 26 of CS/SB 2482 (Chapter 2007-106, Laws of Florida).

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor. Or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 or 850-488-6800.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.