

STATE OF FLORIDA
DEPARTMENT OF REVENUE
AD VALOREM TAX

EMERGENCY RULES 12DER08-07, 12DER08-08,
12DER08-09, 12DER08-10, 12DER08-11, AND 12DER08-12

12DER08-07 Scope of Emergency Rules 12DER08-07 Through 12DER08-12; How to Obtain Forms Adopted in Emergency Rules 12DER08-08, 12DER08-09, and 12DER08-11.

(1) These rules shall replace Rules 12DER08-01 through 12DER08-06, which were effective February 12, 2008. However, only changes to rule numbering and cross references have been made in Rules 12DER08-07 through 12DER08-10 and 12DER08-12. In Rule 12DER08-11, there have been changes to the file record layouts to add explanations for the fields, which remain the same. Within the record layout, one of the fields was moved to avoid confusion with data provided within two neighboring fields. There has been a change to the exemption codes to add an additional code for real property and codes for personal property.

(2) These rules shall supersede any existing rule to the contrary to the extent necessary to implement Chapter 2007-339, Laws of Florida, Senate Bill 4-D.

(3) These rules are to be read in conjunction with applicable statutes and not as a substitute for them. They are designed to assist with the understanding and deployment of the requirements of Chapter 2007-339, Laws of Florida. Users should consult that law as the source document that created the legal requirements, and not rely on these rules solely. This is the first in a planned anticipated series of rules. As provided in Chapter 2007-339, Laws of Florida, these rules are effective retroactive to January 1, 2008.

(4)(a) Copies of the forms incorporated in Emergency Rules 12DER08-08, and 12DER08-11 may be obtained by signing on to the Department's Internet site using the address <http://dor.myflorida.com/dor/property/sb4d.html>. Copies of the forms incorporated in Emergency Rule 12DER08-09 can be obtained by calling Ed Parker, Property Tax Oversight Program, Florida Department of Revenue, at 850-922-7944.

(b) The Department has also sent an email to all property appraisers telling them that the forms are available on this site.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 193.155, 193.1556, 196.031, 196.183, F.S., History--New 3-25-08.

12DER08-08 Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required.

(1) This rule shall replace Rule 12DER08-02, which was effective February 12, 2008.

(2) Section 193.155(8), F.S., provides the procedures for the transfer of the assessment limitation difference, within stated limits, when a homestead is abandoned. These rules describe those procedures, which are an alternative to assessment at just value. The transfer of assessment limitation difference is to the just value of the interest owned by those persons that qualify and receive homestead exemption on a new homestead.

(a) These rules set forth limitations and special rules that must be met consistent with Section 193.155(8), F.S. For 2008, a person may apply for the transfer of a homestead assessment difference from a previous homestead property to a new homestead property if:

1. that person received a homestead exemption on the previous property on January 1, 2007;
and,

2. the previous property was abandoned as a homestead during 2007 after January 1 and was reassessed at just value as of January 1, 2008; and,

3. the new homestead property was assessed at just value without the homestead exemption either because it did not receive a homestead exemption, or the homestead exemption was abandoned, as of January 1, 2008.

(b) Under Section 193.155(8), F.S., the transfer of an assessment limitation difference is available to a person only from a prior homestead in which that person received a homestead exemption.

1. For husband and wife who owned, shared and both resided on, a previous homestead, each shall be considered to have received the homestead exemption for purposes of these rules.

2. For joint tenants with right of survivorship, those tenants that applied for and received the homestead exemption and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

3. For tenants in common, those tenants that applied for and received the homestead exemption and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

(3) The applicant taxpayer shall file Form DR-501T (Transfer of Homestead Assessment Difference-Attachment to Original Application for Ad Valorem Tax Exemption; N. 01/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, by March 1, as an attachment to the homestead exemption application, Form DR-501 (incorporated by reference in Rule 12D-16.002, F.A.C.), to apply for portability. Completing Form DR-501T, including a sworn statement, and Form DR-501 shall be considered sufficient documentation for applying for the transfer. Note: Section 192.047(2), F.S. provides “When the deadline for filing

an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday.”

(4)(a) Upsizing - When the just value of the new homestead is equal to or greater than the just value of the previous homestead, the maximum assessment limitation difference that can be transferred is \$500,000. Within that limit, the differential between assessed value and just value can be transferred to the new property, subject also to provisions for multiple owners described below.

(b) Downsizing - When the just value of the new homestead is less than the just value of the previous homestead, the maximum assessment difference that can be transferred is \$500,000. However, within that limit, the transferred assessment difference must be the same proportion of the new homestead’s just value as the proportion of the assessment difference of the previous homestead was of the just value of the previous homestead, subject also to provisions for multiple owners described below.

(5)(a) Transferring without splitting or joining - When one or more people who previously owned a single homestead and each received the homestead exemption as described in these rules together qualify for a new homestead, where all persons who qualify for homestead exemption in the new homestead also qualified for homestead exemption in the previous homestead without an additional person qualifying for homestead exemption in the new homestead, the maximum assessment difference that can be transferred is \$500,000. Within that limit, the assessment limitation difference from the previous homestead may be transferred, and it is not considered to be a splitting or joining as discussed in paragraphs (b) and (c) below. Further, the rules for “upsizing” and “downsizing” as set forth above apply.

(b) Splitting - When two or more people who previously owned a homestead, abandon that homestead and move to separate homesteads, the maximum total limitation that can be transferred from the previous homestead is \$500,000. However, within that limit, each person that received a homestead exemption and who is eligible to transfer an assessment limitation difference is also limited to a share of the previous homestead's difference between assessed value and just value equal to the full assessment limitation difference divided by the number of owners of the previous homestead. Within this limit, the rules for "upsizing" and "downsizing" as set forth above would apply. For purposes of the transfer of the assessment limitation difference, the shares of the assessment limitation difference are equal, and cannot be sold, transferred, or pledged to any person. For example, a husband and wife divorcing and both abandoning the homestead would each take one half of the assessment limitation difference and the property appraiser could not accept a stipulation otherwise. Section 193.155(8)(d), F.S., specifically states that the difference amount that can be transferred is to be calculated by dividing the difference by the number of owners of the prior homestead. This is true even though some of the owners may not have lived on the property and qualified for the exemption and even if the ownership shares are not equal.

(c) Joining - When two or more people some of whom previously owned separate homesteads on which they received homestead exemption join together in qualifying for a new homestead, the maximum assessment limitation difference that can be transferred is \$500,000. However, within that limit, the assessment difference that can be transferred is further limited to the highest difference between assessed value and just value from any of the applicants' former homesteads. Within that limit, the rules for "upsizing" and "downsizing" as set forth above apply.

(6) For the applicant taxpayer to be eligible for any transfer, the prior homestead must be “reassessed” at just value in 2008, either under the “change in ownership” rules of Section 193.155(3), F.S., or because the property is no longer used as a homestead. After it is assessed at just value the prior homestead could have some assessment limitation difference transferred to it and be assessed under Section 193.155(8), F.S. Generally, if all joint owners of the prior homestead “abandon” it, then the prior homestead is reassessed at just value. However, under the referenced “change in ownership” rules of Section 193.155(3), F.S., some transfers are not re-assessable events, such as transfers between husband and wife, equitable and legal title, and addition of persons to a title. If only one of the previous homesteaders moved to another parcel and another previous homesteader stayed in the original homestead, the homestead would not be abandoned and the one who moved could not transfer any assessment limitation difference.

(7) Classified use assessment - The assessment limitation difference that is eligible for transfer under these rules is the amount of difference between assessed value and just value of the portion of the property used as a homestead. This difference is equal to the reduction in value due to Section 193.155, F.S. For property with both a classified use [such as agricultural] assessment and assessed pursuant to Section 193.155, F.S., the difference eligible for transfer is equal to the difference between just and assessed value on the homestead portion of the property. No portion of property classified and used for agricultural or other non-homestead purpose may be included in the calculation of the eligible assessment limitation difference under Section 193.155(8), F.S.

(8) Procedures for property appraiser:

(a) If the previous homestead was located in a different county than the new homestead, the property appraiser in the new county must transmit a copy of the completed Form DR-501T

together with a completed Form DR-501 to the property appraiser in the previous county. If the previous homesteads of applicants for transfer were in more than one county, each applicant from a different county must fill out a separate Form DR-501T.

1. The property appraiser in the previous county must complete Form DR-501R (Certificate for Transfer of Homestead Assessment Difference; N. 01/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, by April 1 or within two weeks of receipt of Form DR-501T, whichever is later, and forward this form to the new property appraiser. As part of the information returned on this form, the previous property appraiser shall certify that the previous homestead has been or will be reassessed at just value as of January 1, 2008.

2. Based on the information provided on Form DR-501R from the previous property appraiser, the new property appraiser shall calculate the amount of the assessment limitation difference that may be transferred and apply such difference to the January 1, 2008 assessment of the new homestead.

(b) If the transfer is requested from the same county in which the new homestead is located the property appraiser shall retain the Form DR-501T and Form DR-501R is not required.

(c) The property appraiser in the county in which the new homestead is located shall record in the NAL file record, (see Emergency Rule 12DER08-11) the following information for the year in which the transfer is made to the homestead parcel:

1. flag for current year assessment difference transfer;

2. number of owners among whom previous assessment difference split. Enter 1 if previous difference was not split.

3. assessment difference value transferred;

4. county number of previous homestead;

5. parcel ID of previous homestead;

6. year from which assessment difference value transferred;

(d) All information sharing agreements in effect in 2007 covering confidential tax information are hereby perpetuated and extended during the period these emergency rules are in effect, and property appraisers having information sharing agreements with the Department are authorized to share confidential tax information with each other pursuant to Section 195.084, F.S., including social security numbers and linked information on Forms DR-501, DR-501T, and DR-501R.

(9) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, F.A.C., NAL file submitted to the Department. See Emergency Rule 12DER08-11.

(10) The transfer of any limitation is not final until any values on the assessment roll on which the transfer is based are final. If such values are final after the procedures in these rules are exercised, the property appraiser(s) shall make appropriate corrections and a corrected tax notice bill shall be sent. Any values that are in administrative or judicial review shall be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), F.S., may be carried out and fulfilled.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 192.047, 193.114, 193.155, 193.461, F.S., History--New 3-25-08.

12DER08-09 Tangible Personal Property Exemption.

(1) This rule shall replace Rule 12DER08-03, which was effective February 12, 2008.

(2) For 2008, to apply for the exemption, no new form will be necessary; Form DR-405, DR-470, or Form DR-471, (incorporated by reference in Rule 12D-16.002, F.A.C.), if required, will be considered the application for exemption. Form DR-405EZ (Tangible Personal Property Exemption Application and Return; N. 02/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, may be used by property appraisers at their option. Nothing in this rule shall preclude a property appraiser from requiring that Form DR-405 be filed.

(3) For taxpayers who fail to make a complete return and file a return by April 1 or within any applicable extension period, or who late file, the penalties enumerated in Section 193.072, F.S., are applicable. If the return is not timely filed the penalty is calculated under Section 193.072(1), F.S., based on the tax without regard to the \$25,000 exemption; however the exemption shall not be lost from such late filing. If no return is filed, where a return is required, no exemption shall be granted. Note: Section 192.047(2), F.S. provides “When the deadline for filing an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday.”

(4) Section 196.183(1), F.S., specifically 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 transacts business.

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

(a) The “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, 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. Section 196.183(1), F.S., specifically states that not considered a “site where the owner of tangible personal property transacts business” are sites where freestanding property, placed at multiple sites in a county, is located. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

(b) Example: For a business leasing copying machines or other freestanding equipment, the location where the leased equipment is located does not constitute a site where the owner 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.

(6) Property Appraiser actions - maintaining assessment roll entry.

(a) For all freestanding equipment not located at a site where the owner transacts business, and for which a single return is required, and for centrally assessed property under Section 193.085, F.S., the property appraiser is responsible for allocating the exemption to taxing jurisdictions in which freestanding equipment or centrally assessed property is located. Allocation should be based on the proportionate share of the just value of such property in each jurisdiction. All accounts shall be listed on the Rule 12DER08-11 and 12D-8.013, F.A.C. NAP file submitted to the Department, whether fully exempt or not.

(b) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, F.A.C. NAP file submitted to the Department. See Emergency Rule 12DER08-11. Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 192.047, 193.063, 193.072, 193.114, 196.183(1), F.S. History--New 3-25-08.

12DER08-10 Additional Homestead Exemption Pursuant to Section 196.031(1)(b), F.S.;
2008 Tax Year.

(1) This rule shall replace Rule 12DER08-04, which was effective February 12, 2008.

(2) For 2008, to apply for the additional homestead exemption, no new application form will be necessary; Form DR-501, "Original Application for Ad Valorem Tax Exemption" (r. 12/07) (incorporated by reference in Rule 12D-16.002, F.A.C.), will be considered the application for exemption.

(3) The additional homestead exemption shall only apply to non-school levies. In applying the exemption in Section 196.031, F.S., to non school levies, such exemption shall be applied as follows:

(a) First, the regular homestead exemption to the first \$25,000 of assessed value, both school and non school [Section 196.031(1)(a), F.S.];

(b) Second, the second \$25,000 of assessed value shall be taxable unless other exemption(s) may apply, as listed in subsection (4) of this rule;

(c) Third, all non-school assessed value above \$50,000 shall be first applied to the additional \$25,000 of the homestead exemption [Section 196.031(1)(b), F.S.], and after that any other exemption(s) that may apply, in the order as listed in subsection (4);

(4) Other exemptions include, and are to be applied in the following order: widows, widowers, blind and disabled [Section 196.202, F.S.] and disabled ex-servicemembers and surviving spouses [Section 196.24, F.S.] applicable to all levies; local option low-income senior exemption up to a total for the senior exemption of \$50,000, if applicable, applicable to county levies and/or municipal levies [Section 196.075, F.S.]; and the veterans percentage discount [Section 196.082, F.S.].

(5) Property appraiser actions - Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013 F.A.C., NAL file submitted to the Department. See Emergency Rule 12DER08-11. The property appraiser's programming may use a different approach than that set forth in this rule for exemption ordering as long as such programming achieves the same result as this rule requires.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 193.114, 196.031, 196.075, 196.082, 196.202 196.24 F.S., History--New 3-25-08.

12DER08-11 Submission of Compatible Electronic Format Computer Materials to the Department; Superseding Rule 12D-8.013, F.A.C. (2007) and Forms DR-590 and DR-592.

(1) This rule shall replace Rule 12DER08-05, which was effective February 12, 2008.

(2) Submission of Computer Materials to the Department as specified in Rule 12D-8.013, F.A.C. "Submission of Computer Tape Materials," and Form DR-590 "Standard Record Layout for Rule 12D-8 Name, Address and Legal (N.A.L.) File (required format)" (r. 12/00) (incorporated by reference in Rule 12D-16.002, F.A.C.), and Form DR-592 "N.A.P. File Record

Layout” (n. 03/98) (incorporated by reference in Rule 12D-16.002, F.A.C.), shall be modified as follows:

(a) For 2008, the submission shall be:

1. a. NAL file data fields as set forth in “NAL File Data Fields for 2008 Roll Submittal, Superseding Rule 12D-8.013, F.A.C. (2007), Comma Delimited Format Only” (r. 03/08).

b. NAP file data fields as set forth in “NAP File Data Fields for 2008 Roll Submittal, Superseding Rule 12D-8.013, F.A.C. (2007), Comma Delimited Format Only” (r. 03/08).

2. Formatted by including ASCII characters as described in “Specification for Comma Delimited Text File, Record Layout for 2008 Roll Submittal” (n. 02/08) [requests for hard code, fixed length file submission, will be handled on a case by case basis].

3. Utilizing “Exemption Codes for 2008 Roll Submittal” (r. 03/08) as set forth in the document of this name, superseding Rule 12D-8.011(1)(o) and (2)(m), F.A.C., relating to Exemption Type, containing a code indicating the type of exemption granted the account.

(b) The Department of Revenue adopts, and hereby incorporates by reference in this rule, the above referenced four documents, entitled as set forth above in this rule.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 195.096, 196.031, 196.183 F.S., History--New 3-25-08.

12DER08-12 Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009.

(1) This rule shall replace Rule 12DER08-06, which was effective February 12, 2008.

(2) The constitutional amendment and SB4D require that all non-homestead residential property and certain residential and non-residential property be assessed at just value as of

January 1, 2008. Thereafter, the property must be reassessed annually and any change resulting from the reassessment of such property may not exceed 10 percent of the assessment in the prior year.

(3) Section 193.1556, F.S., as created by section 14 of SB 4D requires that owners of property subject to the 10 percent assessment limitation shall, on or before March 1 of each year, apply with the county property appraiser. Failure to apply constitutes a waiver of the assessment limitation unless the failure was due to postal error or unless the Value Adjustment Board accepts a late application due to particular extenuating circumstances.

(4) While 2008 is the base year for the limitation, the application required by Section 193.1556, F.S., is not required to be made until March 1, 2009.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D) Law Implemented 193.1556, F.S. History--New 3-25-08.