

NOTICE OF PROPOSED RULE DEVELOPMENT

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO. RULE TITLE:

12A-1.004 Sales Tax Brackets

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates

12A-1.039 Sales for Resale

12A-1.060 Registration

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent
Distributors

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.004, F.A.C. (Sales Tax Brackets), is to update the information on how to obtain copies of tax rate tables from the Department.

The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), and Rule 12A-1.039, F.A.C. (Sales for Resale), is to clarify that a transaction authorization number used by dealers to document tax-exempt sales or sales made for the purposes of resale may be obtained prior to or at the time of sale.

The purpose of the proposed amendments to subsection (3), Registration of Transient Accommodations, of Rule 12A-1.060, F.A.C. (Registration), and subsection (7), Registration, of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), is to

add the requirement for the taxpayer to provide a federal identification number, social security number, or taxpayer identification number; and to provide that the Department uses the social security numbers as unique identifiers for the administration of Florida's taxes, and that they are held confidential by the Department.

The purpose of the proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors), is to remove unnecessary provisions regarding the revocation of a sales and use direct pay permit. Administrative rules regarding the revocation of a license, which includes a direct pay permit, have been established by the Administration Commission in Rule Chapter 28-106, F.A.C. All agencies must comply with these rules.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to: (1) adopt, by reference, changes to forms used by the Department in the administration of sales and use tax for the enterprise zone jobs credit, the special estimation of taxes for boat, motor vehicle, or aircraft dealers, and the verification of customers authorized to purchase for resale; and (2) remove forms previously used for the reporting of sales tax collected by tax collectors and for the reporting regarding interest earned on the investment of funds by county officers that are now reported and remitted by electronic means to the Department.

Specifically, Form DR-15ZC (Application for Florida Enterprise Zone Jobs Credit for Sales Tax) and the instructions on Form DR-15ZCN are being revised to simplify the application and the instructions and provide necessary technical changes.

Form DR-300400 (Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes), used by the Department in the administration of the estimated sales tax provisions of Section 212.11(1)(d), F.S., is revised to reorganize and simplify the instructions for

boat, motor vehicle, and aircraft dealers to submit an application to report estimated tax under that statutory provision. No procedural changes are being implemented with these revisions.

Form DR-600013 (Request for Verification that Customers are Authorized to Purchase for Resale) is revised to provide that a diskette or compact disk (CD) containing specified records must be submitted to verify which customers of a business are authorized to purchase for resale. The Department is no longer able to receive information for verification purposes on cartridge tapes. Revisions are also made to clarify the instructions regarding the verification process.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the revisions to these forms used by the Department in the administration of sales and use tax.

SPECIFIC 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., (7), 212.11(5)(b), 212.12(1)(b)2., (11), 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 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, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 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, 212.053(10), 212.054, 212.055, 212.0596(1), (2), 212.0598, 212.06, 212.0601, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (2), (4), (5), 212.12(1), (2), (5), (6), (7), (9), (11), (12), (13), 212.13, 212.14(4), (5), 212.16(1), (2), 212.17, 212.18(2), (3), 212.183, 212.21(2), 213.053(10), 213.235, 213.29, 213.37, 213.756, 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.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW.

DATE AND TIME: January 15, 2009, 11:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS: Published on the Department's Internet site at myflorida.com/dor/rules.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.004, 12A-1.038, 12A-1.039,
12A-1.060, 12A-1.061, AND 12A-1.097

12A-1.004 Sales Tax Brackets. The Department has prepared, for public use, sales tax schedules and rate tables cards to provide the sales tax effective brackets for counties that do not impose a discretionary sales surtax and for counties that impose one or more discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Rate Table Bracket Cards from the Department's Internet site at www.myflorida.com/dor/taxes; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3)~~ calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; ~~or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115. Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (3), (6), 212.031(1)(c), (d), 212.04(1), 212.05(1), 212.08(3), 212.12(9), (11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 6-19-01, 11-1-05,_____.

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) through (2) No change.

(3) SALES MADE TO EXEMPT ENTITIES OTHER THAN GOVERNMENTAL UNITS.

(a) through (f) No change.

(g)1. TRANSACTION AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR A SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption for each sale, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number prior to or at the point-of-sale by using the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. When using the Department's on-line Certificate Verification System, the dealer may key up to five Florida Consumer's Certificate of Exemption numbers into the system. When using the Department's automated nationwide toll-free verification system, the selling dealer is prompted to key in a single Florida Consumer's Certificate of Exemption number. Either verification system will issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Florida Consumer's Certificate of Exemption. Selling dealers using the automated telephone verification system who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or

speech impairments may call the Department's TDD at 1(800)367-8331 or (850)922-1115.

3. through 4. No change.

(h) No change.

(4) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), 212.05(1)(j), 212.06(1)(c), (16), 212.0601, 212.07(1), 212.08(5)(m), (6), (7), 212.085, 212.18(2), (3), 212.21(2) FS. History--Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 7-31-03, 6-28-04, 11-6-07,_____.

12A-1.039 Sales for Resale.

(1) through (2) No change.

(3) Except as provided in subsection (4), a dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods:

(a) No change.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the purchaser's Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department.

1. A "transaction resale authorization number" must be obtained by the selling dealer prior to or at the point-of-sale by using the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department's automated nationwide toll-

free telephone verification system at 1(877)357-3725.

2. When using the Department's on-line Certificate Verification System, the dealer may key up to five purchaser's sales tax certificate of registration numbers into the system. When using the Department's automated nationwide toll-free verification system, the selling dealer is prompted to key in a single purchaser's sales tax certificate of registration number. The system will either issue a 13-digit transaction resale authorization number or alert the selling dealer that the purchaser does not have a valid resale certificate. Selling dealers using the automated telephone verification system who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331 or (850)922-1115.

3. through 5. No change.

(c) No change.

(4) through (8) No change.

Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b), (i), 212.07(1), 212.085, 212.13(5)(c), (d), 212.17(6), 212.18(2), (3), 212.21(2), 213.053(10) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 11-6-07,_____.

12A-1.060 Registration.

(1) through (2) No change.

(3) REGISTRATION OF TRANSIENT ACCOMMODATIONS.

(a) through (d) No change.

(e)1. To collectively register transient accommodations that are located in a single county, the agent, representative, or management company holding a dealer's certificate of registration may file an Application for Collective Registration for Rental of Living or Sleeping Accommodations (Form DR-1C). A separate Form DR-1C is required for each county.

2. The agent or management company must provide the following information for each property, other than a time-share unit, which is to be collectively registered:

a. Property owner's name;

b. Property owner's federal identification number, social security number, or individual taxpayer identification number (if applicable);

c. Property owner's mailing address;

d. Location address of each property; and

e. An indication of whether the property is located within a city's limits.

3. through 5. No change.

6. Social security numbers are used by the Department as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records.

(4) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(2), (5), (6), 212.14(4), 212.16(1), (2), 212.18(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly

12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03, 6-4-08,_____.

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) through (6) No change.

(7) REGISTRATION.

(a) No change.

(b)1. Transient accommodations, including timeshare units, that are rented, leased, let, or for which a license to use has been granted to others for periods six months or less may be collectively registered by an agent, representative, or management company under the provisions of subsection (3) of Rule 12A-1.060 ~~paragraph 12A-1.060(1)(e)~~, F.A.C. ~~(See Rule 12A-1.060, F.A.C.)~~

2. No change.

3. The following is a suggested format of the written agreement executed after July 1, 1994, between an agent, representative, or management company and the owner of any transient accommodations that are offered for rent, lease, let, or for which a license to use is granted to others for periods of six months or less:

I, _____ (Name of Property or Timeshare Period Owner), hereby authorize _____ (Name of Agent, Representative, or Management Company) to act as my representative to rent, lease, let, or grant a license to others to use my described property (properties) or timeshare period (timeshare periods) located at _____ (use additional paper if necessary) and to charge, collect, and remit sales tax levied under Chapter 212, F.S., to the Department of Revenue. I acknowledge that, by renting, leasing, letting, or offering a license to others to use any transient

accommodations, as defined in subsection (2) of Rule 12A-1.061(2), F.A.C., I am exercising a taxable privilege under Chapter 212, F.S., and as such acknowledge that I am ultimately liable for any sales tax due the State of Florida on such rentals, leases, lets, or licenses to use. I fully understand that should the State be unable to collect any taxes, penalties, and interest due from the rental, lease, let, or license to use my property, a warrant for such uncollected amount will be issued and will become a lien against my property until satisfied.

(Signature of Property Owner/Lessor)

(Signature of Agent, Representative, or Management Company).

4. No change.

5. The agent, representative, or management company must notify the Department of Revenue when it receives affirmative, written notice that it ceases to manage any transient accommodation for which it has collectively registered under the provisions of subsection (3) of Rule 12A-1.060 ~~paragraph 12A-1.060(1)(c)~~, F.A.C. The agent, representative, or management company may contact any taxpayer service center or Central Registration at (850) 488-9750. A written notification that includes the sales tax registration number of the property or timeshare unit; the name, address, and federal identification number, social security number, or individual taxpayer identification number (if applicable) of the property owner; and the name, location address, federal identification number, social security number, or individual taxpayer identification number (if applicable), and sales tax registration number of the agent, representative, or management company may be provided to the Department at the following address:

Florida Department of Revenue

Central Registration

P. O. Box 6480

Tallahassee, Florida 32314-6480.

6. Social security numbers are used by the Department as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and not subject to disclosure as public records.

(8) through (19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 212.02(2), (10)(a)-(g), (16), 212.03(1), (2), (3), (4), (5), (7), 212.031, 212.04(4), 212.08(6), (7)(i), (m), 212.11(1), (2), 212.12(7), (9), (12), 212.13(2), 212.18(2), (3), 213.37, 213.756 FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99, 3-4-01(4), 3-4-01(2), (5), (14), 10-2-01, 8-1-02,_____.

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors.

(1) No change.

(2)(a) through (g) No change.

(h) Holders of Sales and Use Tax Direct Pay Permits must notify the Department within 30 days of any change of circumstances that may affect the dealer's qualification to hold the

permit. ~~The permit will be revoked if the Department determines that the holder of a direct pay permit no longer meets the requirements set forth in this rule.~~

(i) No change.

(3) No change.

Specific Authority 212.17(6), 212.18(2), (3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3., 4., 212.0598, 212.06(11), 212.08(4)(a)2., (8), (9), 212.12(13), 212.18(3), 212.183 FS. History—New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-2-01, 6-12-03,_____.

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
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(2) through (6)(i) No change.

(j) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective June 7, 2006 (R. <u>06/08</u> 06/06)	___ 04/07
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(k) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New	
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Law (R. ~~06/08~~ 06/06) _____ 04/07

(l) through (m) No change.

(7) through (12) No change.

~~(13) DR-36~~ County Officers' Interest Report (R. ~~12/89~~) 08/92

~~(14) DR-38~~ Tax Collector's Report—6% Sales Tax and/or
Surtax (R. ~~06/02~~) 04/03

(15) through (23) Renumbered (13) through (21) No change.

~~(22)~~(24) DR-300400 Boat, Motor Vehicle, or Aircraft Dealer
Application for Special Estimation of Taxes
(R. ~~02/08~~ 06/99) _____ 09/04

~~(23)~~(25) DR-600013 Request for Verification that Customers are
Authorized to Purchase for Resale (R. ~~06/08~~
~~06/07~~) _____ 01/08

Specific 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., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1),
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, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133,
201.17(1)-(5), 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(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37,
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,_____.