

AGENDA

FLORIDA DEPARTMENT OF REVENUE

RULE HEARING

10:30 A.M., APRIL 11, 2011

ROOM 2503, BLDG ONE, 2450 SHUMARD OAK BLVD
TALLAHASSEE, FLORIDA

THIS MEETING IS OPEN TO THE PUBLIC

1. Call to Order:

- (a) Introduction of Department of Revenue Staff
- (b) Opening Remarks by Department of Revenue

2. Business: Presentation and discussion of the proposed changes to the following rule sections of the Florida Administrative Code:

SALES AND USE TAX:

- Rule 12A-1.011(7), F.A.C., Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice
- Rule 12A-1.0143, F.A.C., Manufacturing and Spaceport Investment Incentive Program Tax Refunds

ADMINISTRATIVE RULES:

- Rule 12-24.011, F.A.C., Public Use Forms
- Rule 12-28.001, F.A.C., Scope
- Rule 12-28.002, F.A.C., Definitions
- Rule 12-28.003, F.A.C., Enrollment Procedures
- Rule 12-28.004, F.A.C., Transmitting Funds and Return/Remittance Detail to the Department
- Rule 12-28.008, F.A.C., Due Date; General Provisions
- Rule 12-28.009, F.A.C., Distribution of Funds Received by the Department
- Rule 12-29.001, F.A.C., Scope
- Rule 12-29.002, F.A.C., Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment
- Rule 12-29.003, F.A.C., Florida Tax Credit Scholarship Program; Applications

INSURANCE PREMIUM TAX

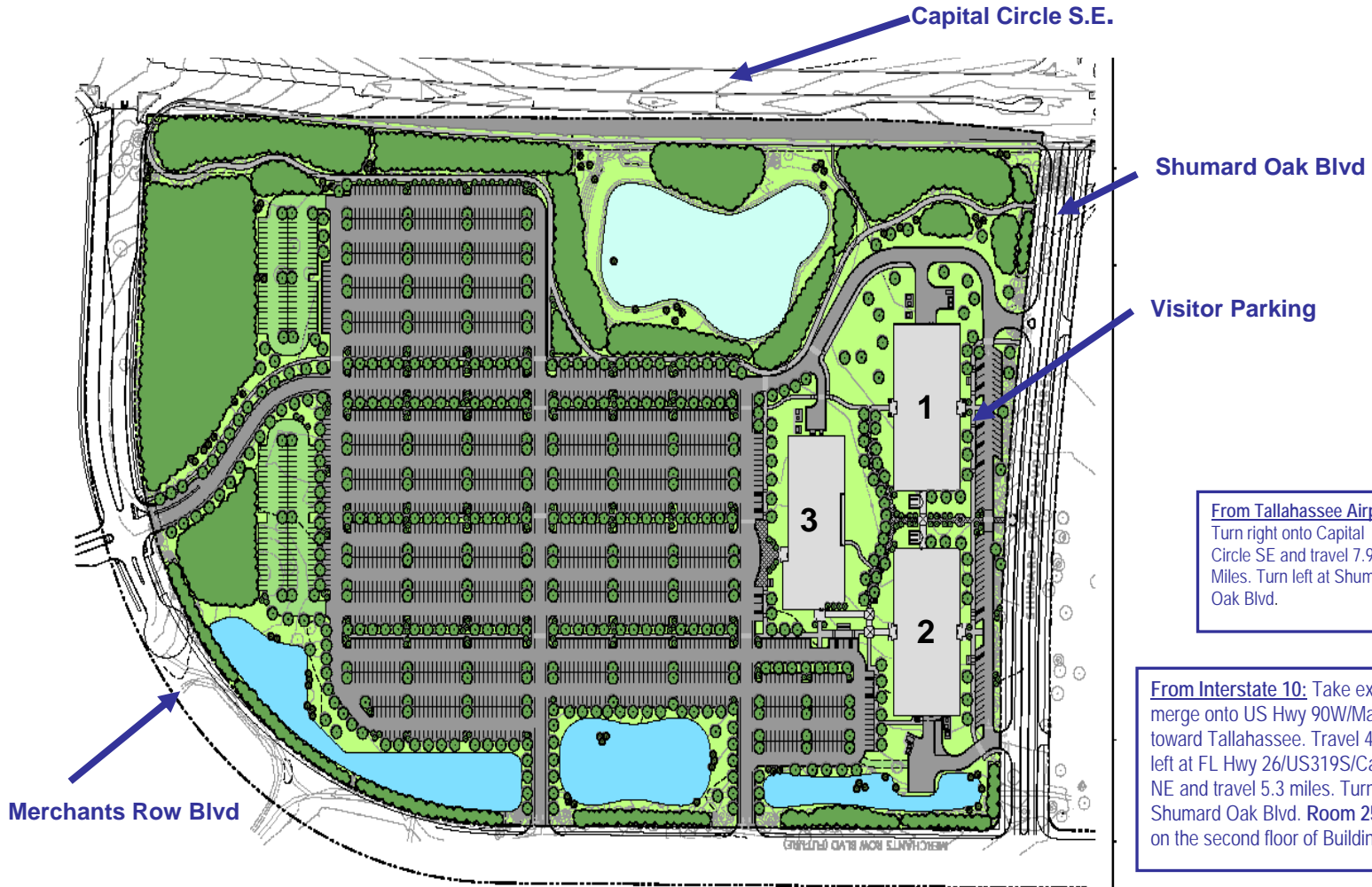
- Rule 12B-8.001, F.A.C., Premium Tax; Rate and Computation

CORPORATE INCOME TAX

- Rule 12C-1.0186, F.A.C., Credit for Florida Alternative Minimum Tax
- Rule 12C-1.0187, F.A.C., Credits for Contributions to Nonprofit Scholarship Funding Organizations
- Rule 12C-1.051(12), F.A.C., Forms

3. Closing comments.

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Turn right onto Capital Circle SE and travel 7.9 Miles. Turn left at Shumard Oak Blvd.

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0' 100' 200' 100'
ONE INCH EQUALS ONE HUNDRED FEET
CREATED: 01/23/2008
NORTH
UPDATED: 01/23/2008

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO. RULE TITLE:

12A-1.011 Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice

PURPOSE AND EFFECT: Prior to amendment effective July 12, 2010, Rule 12A-1.020, F.A.C., provided that germicides used in the treatment of drinking water and sewage are exempt from tax. Provisions regarding the treatment of germicides for treating drinking water were moved to Rule 12A-1.011, F.A.C., effective November 3, 2009; however, provisions regarding germicide used to treat sewage were omitted from the amendments to Rule 12A-1.011, F.A.C. The purpose of the proposed amendments to Rule 12A-1.011, F.A.C. (Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice), is to add that germicides used in the treatment of sewage are exempt from tax.

SUMMARY: The proposed amendments to Rule 12A-1.011, F.A.C. (Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice), provide that germicides used in the treatment of sewage are tax-exempt.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to

provide information regarding regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(14)(c), (20), 212.05(1)(a)1.a., 212.06(1)(a), 212.07(2), 212.08(1), (4)(a)1., (7)(oo), (pp) FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Tammy Miller at (850) 617-8346. 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 IS: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7082.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.011

12A-1.011 Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice.

(1) through (6) No change.

(7) WATER AND ICE.

(a) through (c) No change.

(d) Germicides (such as chlorine), sodium silicate, activated charcoal, and similar purification agents used in the treatment of drinking water or sewage are exempt.

(e) No change.

(8) through (9) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (20), 212.05(1)(a)1.a., 212.06(1)(a), 212.07(2), 212.08(1), (4)(a)1., (7)(oo), (pp) FS. History— Revised 10-7-68, 6-16-72, 9-28-78, 10-29-81, Formerly 12A-1.11, Amended 12-8-87, 1-2-89, 8-10-92, 6-19-01, 4-17-03, 11-3-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7082.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 23, 2010 (Vol. 36, No. 51, pp. 6069-6070). No request was received by the Department to hold a workshop.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.0143 Manufacturing and Spaceport Investment Incentive Program Tax Refunds

PURPOSE AND EFFECT: Rule 12A-1.0143, F.A.C. (Manufacturing and Spaceport Investment Incentive Program Tax Refunds), is being created to provide procedures to be used in obtaining a refund of taxes paid on purchases of eligible equipment authorized by the Manufacturing and Spaceport Investment Incentive Program administered by the Office of Tourism, Trade, and Economic Development. When in effect, this rule will provide how to obtain a refund of taxes paid on purchases of eligible equipment authorized under the Program and the time frame for filing an application for refund with the Department of Revenue.

SUMMARY: The proposed creation of Rule 12A-1.0143, F.A.C. (Manufacturing and Spaceport Investment Incentive Program Tax Refunds), provides procedures to be used in obtaining a refund of taxes paid on purchases of eligible equipment from the Department of Revenue pursuant to the Manufacturing and Spaceport Investment Incentive Program administered by the Office of Tourism, Trade, and Economic Development.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 213.255, 215.26, 288.1083 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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 IS: Jeff Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7347.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
CREATING RULE 12A-1.0143

12A-1.0143 Manufacturing and Spaceport Investment Incentive Program Tax Refunds.

(1) Who May Claim the Refund? Any eligible entity that has received approval from the Office of Tourism, Trade, and Economic Development for the purchase of eligible equipment for use in the Manufacturing and Spaceport Investment Incentive Program may claim the refund. A refund will be allowed on state sales and use taxes previously paid, but not on any discretionary sales surtax paid. The refunds are limited to the time periods and amounts provided in subsection (2).

(2) Amount of the Refund. The refund amount is based on an eligible entity's purchases of eligible equipment placed in service in Florida during the state fiscal years 2010-2011 and 2011-2012 (July 1, 2010-June 30, 2011, and July 1, 2011-June 30, 2012) in excess of the entity's total cost of eligible equipment purchased and placed into service in Florida by the entity in its tax year that began in 2008. The total amount of refund available to an eligible entity is limited to the amount of previously paid state sales and use tax certified by the Office of Tourism, Trade, and Economic Development and will not exceed \$50,000 in each of the state fiscal years 2010-2011 and 2011-2012.

(3) Obtaining the Refund.

(a) Taxpayers must file an application with the Office of Tourism, Trade, and Economic

Development for eligibility for a tax refund under the Manufacturing and Spaceport Investment Incentives Program. Applications may be obtained at http://www.fkgov.com/financial_incentives or by contacting the Office at (850) 487-2568.

(b) When the Office of Tourism, Trade, and Economic Development sends written certification to the applicant certifying the amount of Florida sales and use tax refund, the Office will send a copy of the written certification to the Department. To obtain a refund of Florida sales and use tax previously paid on purchases of eligible equipment under the Manufacturing and Spaceport Investment Incentive Program, a completed Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), with a copy of the certification letter issued by the Office, must be filed with the Department. Form DR-26S must be filed within 30 days from the date of the written certification issued by the Office.

Applications for Refund-Sales and Use Tax are available on the Department's website at www.myflorida.com/dor/forms. Form DR-26S, with a copy of the certification letter, should be mailed to:

Florida Department of Revenue

Refund Subprocess

P.O. Box 6490

Tallahassee, Florida 32314-6490.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 213.255, 215.26,

288.1083 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Soff, Tax Law Specialist,
Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850)717-7347.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and
Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Proposed Rule Development was published in the Florida Administrative Weekly on September
24, 2010 (Vol. 36, No. 38, p. 4559). A rule development workshop was held on October 11,
2010. No comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

RULE NO. RULE TITLE:

12-24.011 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), is to adopt, by reference, updates to forms used by the Department in its e-Services Program.

SUMMARY: The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), adopt, by reference, updates to Form DR-600, Enrollment and Authorization for e-Services Program, to include municipalities and counties for purposes of remitting the red light camera penalties imposed under Section 5, Chapter 2010-80, L.O.F.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

LAW IMPLEMENTED: 119.071(5), 202.30, 206.485, 212.08(5)(q), 213.755, 220.21(2), (3), 443.1317, 443.163 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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).

PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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)717-7610.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE
PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS
PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION
AMENDING RULE 12-24.011

12-24.011 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department for the purposes of the e-Services Program and are hereby incorporated by reference in this rule.

(b) Copies of the forms may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department’s Internet site at myflorida.com/dor/forms; or, 2) calling the Department at (800) 352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0112 32304. Persons with hearing or speech impairments may call the Department’s TDD at (800) 367-8331 or (850) 922-1115.

Form Number	Title	Effective Date
(2) DR-600	Enrollment and Authorization for e-Services Program (R. 03/11/09)	<u> </u> 06/10

(3) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

Law Implemented 119.071(5), 202.30, 206.485, 212.08(5)(q), 213.755, 220.21(2), (3), 443.1317,

443.163 FS. History-New 6-1-09, Amended 6-28-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. 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 RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 24, 2010 (Vol. 36, No. 38, p. 4557). Public comments regarding the proposed requirement to electronically file insurance premium tax returns were received at the rule development workshop held on October 11, 2010. In response to these comments, the Department has withdrawn the proposed change to Rule 12-24.003, F.A.C., Requirements to File or to Pay Taxes by Electronic Means, for further development.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

REMITTANCE REQUIREMENTS FOR CLERKS OF THE COURT, MUNICIPALITIES,
AND COUNTIES

RULE NO. RULE TITLE:

12-28.001 Scope

12-28.002 Definitions

12-28.003 Enrollment Procedures

12-28.004 Transmitting Funds and Return/Remittance Detail to the Department

12-28.008 Due Date; General Provisions

12-28.009 Distribution of Funds Received by the Department

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12-28, F.A.C., is to expand the chapter to include provisions for the remittance of traffic infraction detector penalties collected by municipalities or counties to the Department for disbursement to designated state funds, as provided in Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F. In addition, the rule chapter is being updated to reflect the following law changes regarding the remittance/reporting of court-related fees by Clerks of the Court to the Department for distribution to designated state funds:

- Section 12, Chapter 2010-162, L.O.F., amends Section 28.245, F.S., to require Clerks of the Court to remit court-related charges to the Department by the 10th day of the month following the month of collection;
- Section 5, Chapter 2010-163, L.O.F., amends Section 322.20(11)(a), F.S., to require that the fees collected by the Clerk of the Court for providing transcripts or other documents or for

assisting in search for an individual's driver history record be remitted to the Department within five working days, unless a shorter time is required by law;

- Section 13, Chapter 2010-134, L.O.F., imposes an administrative fee for trustee deeds recorded, as provided in Sections 721.855 and 721.856, F.S., required to be collected by the Clerk of the Court and remitted to the Department weekly in the same manner as the documentary stamp tax collected by the Clerk of the Court; and
- Sections 4, 5, and 19, Chapter 2009-204, L.O.F., repealed Section 28.37(4), F.S., removing provisions for the remittance of the amount of funds in excess of the approved budget amount established in Section 28.36, F.S., to the Department, and transfer the Department of Revenue Clerk of Court Trust Fund to the Justice Administrative Commission.

When in effect, this rule chapter will include updated provisions for the electronic remittance and reporting of funds from all court-related charges collected by Clerks of the Court, and it will include provisions for the remittance of traffic infraction detector penalties imposed and collected by municipalities and counties for distribution to designated state funds by the Department.

SUMMARY: The proposed amendments to Rule 12-28.001, F.A.C. (Scope), provide that provisions for the remittance of traffic infraction detector penalties collected by municipalities or counties to the Department for disbursement to designated state funds, as provided in Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F., will be included in the rule chapter.

The proposed amendments to Rule 12-28.002, F.A.C. (Definitions), include remittances by local governments of the traffic infraction detector penalties imposed under Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F., in the definitions of terms used in the rule

chapter.

The proposed amendments to Rule 12-28.003, F.A.C. (Enrollment Procedures), expand the rule to provide how municipalities or counties are to enroll, or update their enrollment, with the Department's e-Services Program for the remittance of traffic infraction detector penalties to the Department for disbursement to designated state funds, as provided in Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F.

The proposed amendments to Rule 12-28.004, F.A.C. (Transmitting Funds and Return/Remittance Detail to the Department): (1) update information regarding the transmitting of funds and the remittance detailed information for the Clerk of the Court Revenue Remittance System; and (2) include provisions for the Traffic Infraction Detector (Red Light Camera) Remittance System to be used by municipalities for remittance of such penalties to the Department for disbursement to designated state funds, as provided in Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F.

The proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General Provisions), update the rule to: (1) include provisions for the remittance of traffic infraction detector penalties by municipalities or counties to the Department for disbursement to designated state funds, as provided in Section 316.0083, F.S., created by Section 5, Chapter 2010-80, L.O.F.; and (2) reflect the following law changes regarding the remittance/reporting of court-related fees by Clerks of the Court to the Department for distribution to designated state funds:

- Section 12, Chapter 2010-162, L.O.F., amends Section 28.245, F.S., to require Clerks of the Court to remit court-related charges to the Department by the 10th day of the month following the month of collection;

- Section 5, Chapter 2010-163, L.O.F., amends Section 322.20(11)(a), F.S., to require that the fees collected by the Clerk of the Court for providing transcripts or other documents or for assisting in search for an individual's driver history record be remitted to the Department within five working days, unless a shorter time is required by law;
- Section 13, Chapter 2010-134, L.O.F., imposes an administrative fee for trustee deeds recorded as provided in Sections 721.855 and 721.856, F.S., required to be collected by the Clerk of the Court and remitted to the Department weekly in the same manner as the documentary stamp tax collected by the Clerk of the Court; and
- Sections 4, 5, and 19, Chapter 2009-204, L.O.F., repealed Section 28.37(4), F.S., removing provisions for the remittance of the amount of funds in excess of the approved budget amount established in Section 28.36, F.S., to the Department, and transfer the Department of Revenue Clerk of Court Trust Fund to the Justice Administrative Commission.

Sections 4, 5, and 19, Chapter 2009-204, L.O.F., repealed Section 28.37(4), F.S., removing provisions for the remittance of the amount of funds in excess of the approved budget amount established in Section 28.36, F.S., to the Department, and transfer the Department of Revenue Clerk of Court Trust Fund to the Justice Administrative Commission. The proposed amendments to Rule 12-28.009, F.A.C. (Distribution of Funds Received by the Department), remove these obsolete provisions from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding regulatory costs, or to 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), 213.13 FS.

LAW IMPLEMENTED: 28.245, 213.13, 219.07, 316.0083, 322.20(11), 721.8561 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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).

PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULES 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)717-7610.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-28, FLORIDA ADMINISTRATIVE CODE

CLERKS OF THE COURT REMITTANCE REQUIREMENTS FOR CLERKS OF THE
COURT, MUNICIPALITIES, AND COUNTIES

AMENDING RULES 12-28.001, 12-28.002, 12-28.003, 12-28.004,
12-28.008 AND 12-28.009

12-28.001 Scope.

(1) Remittances by Clerks of the Court. This rule chapter sets forth the rules to be used in the administration of Section 213.13, F.S., which provides for the electronic remittance of all funds collected by the Clerks of the Court (“Clerk”) on behalf of the state or on behalf of the Court for distribution to the state and the electronic transmission of return/remittance detail ~~for such remittance~~ to the Department of Revenue for further disbursement to the various trust funds and agencies as designated in the applicable statutes.

(2) Remittances by Municipalities and Counties. This rule chapter also sets forth the rules to be used in the administration of Section 316.0083, F.S., which provides for the electronic remittance of the traffic infraction detector penalties collected by municipalities or counties (“Local Government”) and the electronic transmission of return/remittance detail to the Department of Revenue for disbursement to the designated funds.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, 213.13, ~~213.131~~, 219.07, 316.0083, 322.20(11), 721.8561 FS. History-New 8-19-02, Amended 6-1-09, _____.

12-28.002 Definitions. For the purposes of this rule chapter, the following terms and phrases when used in this rule chapter shall have the meanings ascribed to them in this rule, except where the context clearly indicates a different meaning:

(1) “Automated Clearing House” means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions rather than the physical movement of paper items.

(2) “ACH debit” means the electronic transfer of funds ~~that from a Clerk’s account,~~ which is generated upon the Clerk’s instruction of the Clerk or Local Government and cleared through the Automated Clearing House for deposit to the State Treasury.

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

(4) “Electronic funds transfer” means an electronic transfer of funds.

(5) “Payment information” means the data that ~~a Clerk must be submitted to the~~ Department submit when making an electronic remittance ~~and that must be communicated to the~~ Department. Payment information includes the:

(a) Payor information, which consists of the:

1. Bank account number; and,
2. Financial routing and transit number as issued by the American Banking Association;

(b) Contact person information, which consists of:

1. Name;
2. Business telephone number and fax number; ~~and~~;
3. Business e-mail address; and
- ~~4.3-~~ Business mailing address.

(c) Name of person authorized to sign the electronic remittance.

(6) “Return/remittance detail” means that information required by statute or rules adopted by agencies that administer the programs for which the funds are collected. This information must, at a minimum, contain detailed data regarding the specific taxes, fees, fines, penalties, reimbursements, court costs, and other court-related funds that constitute the funds being electronically remitted.

(7) “Session” means the period of time from the point the Clerk logs onto the ~~Internet~~ Clerk of Court Revenue Remittance System up to the point the Clerk exits the system, or the period of time from the point the Local Government logs onto the Traffic Infraction Detector (Red Light Camera) Remittance System up to the point the Local Government exits the system.

A session can be concluded by:

- (a) The ~~Clerk through~~ completion of an electronic remittance of funds and transmission of detail and receipt of a confirmation number, which is defined as a “transaction”; or,
- (b) The ~~Clerk through~~ a “save and exit” feature (to return later for completion); or,
- (c) The system because of inactivity or a connectivity failure.

(8) “Working day” means any calendar day other than a Saturday, Sunday, or federal or state legal holiday or legal holiday of the jurisdiction in which the Clerk’s or Local Government’s financial institution is located.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, ~~28.36, 28.37(4)~~, 213.13, ~~213.131~~, 219.07, 316.0083, 721.8561 FS. History-New 8-19-02, Amended 6-1-09, _____.

12-28.003 Enrollment Procedures.

(1)(a) Each Clerk and each Local Government ~~or authorized designee who is~~ required to electronically remit funds collected and to electronically transmit return/remittance detail ~~and to~~

~~electronically submit payment information~~ for such funds as provided in detail pursuant to Section 213.13, F.S., or Section 316.0083, F.S., must enroll with the Department for e-Services by:

1. Accessing ~~accessing~~ and completing enrollment on the Department's website ~~Internet site~~ at myflorida.com/dor/eservices/enroll.html; or

2. If unable to enroll using the Department's website, completing an Enrollment and Authorization for e-Services Program (Form DR-600, incorporated by reference in Rule 12-24.011, F.A.C.).

(b) Information regarding enrollment with the Department for e-Services may be obtained at myflorida.com/dor/eservices/enroll.html or by calling the Department toll-free at (800) 352-3671. Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331 or (850) 922-1115.

~~(c)~~ (b) Copies of Form DR-600 the form may be obtained, without cost, by one or more of the following methods: 1) downloading the form from the Department's website ~~Internet site~~ at myflorida.com/dor/forms; or, 2) calling the Department at (800) 352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0112 ~~32304~~. Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331 or (850) 922-1115.

(2) Upon receipt of enrollment information ~~Within 30 consecutive calendar days of receiving the completed enrollment~~, the Department will assign confidential user information directly to the Clerk or Local Government enrolling and issue the Clerk an acknowledgement

letter that includes the confidential user information and instructions the following:

~~(a) The Clerk's business partner or user identification number.~~

~~(b) The Clerk's password.~~

~~(c) Instructions for signing onto the Department's Internet Clerk of Court Revenue Remittance System or onto the Department's Traffic Infraction Detector (Red Light Camera) Remittance System.~~

~~(d) The telephone number of the Department's e-Services Unit, which will assist the Clerks in complying with the requirements of this program and Section 213.13, F.S.~~

(3)(a) If for any reason a Clerk or his or her authorized designee is replaced or is unable to perform the activities required by Section 213.13, F.S., the successor must notify the Department within 30 consecutive calendar days of taking office or being hired ~~by accessing and completing a change request on the Department's Internet site, or completing and submitting a new Form DR-600.~~ If for any reason the contact person or person authorized to sign the electronic remittance designated by the Local Government is replaced, the Local Government must notify the Department within 30 consecutive calendar days.

(b) Clerks and Local Governments may notify the Department of updates to the e-Services profile by accessing and completing an update on the Department's website at myflorida.com/dor/e-services/enroll.html, or by completing a new Form DR-600 and submitting it to the Department.

~~(c)(b)~~ All ~~However,~~ all regularly-scheduled fund remittances must continue without interruption during any transition period.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, ~~28.36, 28.37(4)~~, 213.13, ~~213.131~~, 219.07, 316.0083, 721.8561 FS. History-New 8-19-02, Amended 6-1-09, _____.

12-28.004 Transmitting Funds and Return/Remittance Detail to the Department.

(1) Means of Funds and Detail Transmission - ~~A Clerk are required to use, as their means of funds and detail transmission,~~ a personal computer capable of accessing the Internet using a version of the Microsoft Internet Explorer browser that utilizes 128-bit secure socket layer (SSL) encryption is required. ~~Versions at or above 6.0 are strongly recommended.~~

(2) Procedures for Funds and Detail Transmission.

(a) After successful enrollment, the Clerk or his or her designee will access the ~~Internet Clerk of Court Revenue Remittance System,~~ or the Local Government will access the Traffic Infraction Detector (Red Light Camera) Remittance System, using the confidential user information provided by the Department ~~his or her Business Partner Number/User ID and Password~~. This action initiates a session, as defined in Rule 12-28.002, F.A.C.

(b) During the session, the ~~Clerk or his or her designee will be required to provide the~~ following information will be required:

1. Reporting period;
2. Return/remittance detail;
3. Payment information, as defined in Rule 12-28.002, F.A.C.

(c) The funds and detail transmission is not completed during any session until a confirmation number is issued. This number provides a means of verifying the transaction and serves as the ~~Clerk's~~ receipt.

(3) Method for Funds Remittance. The Department uses the ACH debit transfer ~~prescribed~~ method for funds remittance by the Clerks and by Local Governments to the Department ~~is the ACH Debit method of electronic funds transfer~~. The Department will bear the costs of processing the funds remittance by the ACH debit transfer ~~ACH Debit~~ method.

(4) Transmission Problems, Remittance Errors, and Failed Payments.

(a) Reporting Transmission Problems - ~~For Should the Clerk experience~~ problems ~~experienced with~~ transmitting the return/remittance detail, ~~the Clerk is required to~~ contact the Department's e-Services Unit as soon as possible:

1. By telephone at (850) 617-6623 ~~(850) 487-9713, or;~~

2. By fax at (850) 922-5088; or,

~~3.2.~~ By e-mail at cc-ehelp@dor.state.fl.us.

(b) Correcting Remittance Errors.

1. If, before 4:00 p.m., Eastern Time E.T., on the day of submission, ~~a Clerk discovers that an error has been made~~ in the return/remittance detail is discovered, ~~the Clerk must~~ contact the Department's e-Services Unit at (850) 617-6623 ~~(850) 487-9713~~ for assistance.

2. If, after 4:00 p.m., Eastern Time E.T., on the day of submission, or on any subsequent day thereafter, ~~a Clerk discovers an error has been made~~ in the return/remittance detail is discovered, ~~the Clerk must~~ contact the Department's Revenue Accounting by e-mail at REVENUEACCOUNTING@dor.state.fl.us or by telephone Refunds and Distribution Process at (850) 617-8586 ~~(850) 487-1150~~ to report the error.

(c) Replacing failed payments - ~~When If a Clerk discovers that~~ an electronic payment has failed or will be returned by the his or her financial institution, ~~the Clerk must immediately resubmit only the payment must be resubmitted~~ using the "Returned Item Repayment" option page of the remittance system Internet Clerk of Court Revenue Remittance System. Additional ~~Should the Clerk require additional assistance may be obtained by calling, the Clerk may contact~~ the Department's Returned Items Unit at (850) 488-8663.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, ~~28.36, 28.37(4)~~, 213.13,

~~213.131, 219.07, 316.0083, 322.20(11), 721.8561~~ FS. History-New 8-19-02, Amended 6-1-09,
_____.

12-28.008 Due Date; General Provisions.

(1) Transactions ~~The Clerks who are required~~ to remit funds electronically must be completed ~~complete the transaction~~ so that the amount due is deposited as collected funds to the State Treasurer's account on or before the remittance due date required by applicable statute or any agency rule.

(a) 5-Day Remittances. Fees imposed under Section 322.20(11)(a), F.S., for providing individual driver history transcripts or other documents, or for assisting in search for an individual's driver history record must be remitted no later than five working days after receipt of the fee, unless a shorter period is required by law. The Clerk must complete the transaction before 5:00 p.m., Eastern Time, on the fifth working day following the receipt of the fee.

(b)(a) Weekly Remittances. Documentary stamp tax, and nonrecurring intangible personal property tax, administrative fees for trustee deeds recorded as provided in Sections 721.855 and 721.856, F.S., collected by the Clerk, and traffic infraction detector penalties imposed under Section 316.0083, F.S., collected by the Local Government remittances must be remitted on a weekly basis. The Clerk must complete the transaction before 5:00 p.m., Eastern Time E.T., on the sixth working day following the close of the week in which the funds were received, as provided in Section 219.07, F.S.

(c)(b) Monthly Remittances. Court-related fees, services charges, court costs, and fines must be remitted on a monthly basis. The Clerk must complete the transaction before 5:00 p.m., Eastern Time, on the last working day before the 10th 20th day of the month immediately

following the month in which the moneys were collected, as provided in Section 28.245, F.S. If the 10th day of the month falls on a Saturday, a Sunday, a legal holiday as defined in Section 683.01, F.S., or on a legal holiday of the jurisdiction in which the Clerk's financial institution is located, the transaction must be completed on or before 5:00 p.m., Eastern Time, on the preceding business day. ~~Failure to do so will constitute late payment.~~

~~(c) Annual Remittance. The cumulative excess of all fees, service charges, court costs, and fines retained by the Clerk over the amount needed to meet the approved budget amount established under Section 28.36, F.S., must be remitted on an annual basis. The Clerk must complete the transaction before 5:00 p.m., Eastern Time, on the last working day before December 31, each year, as provided in Section 28.37(4), F.S.~~

(d) Failure to remit the funds as provided in this subsection will constitute late payment. Late payments must be deposited on the next business day following the date that the transmission was completed.

(2) To assist ~~the Clerks~~ in complying with all statutory requirements for timely remittance of funds ~~due~~, the Department will annually develop a calendar of remittance dates for use by Clerks and Local Governments ~~by which the initiation of a transaction must be completed before 5:00 p.m., Eastern Time.~~ The annual calendar of remittance dates (~~Florida e-Services Program County Officers' Calendar of Remittance Dates, Form DR-659C~~) is posted on the Department's website at myflorida.com/dor/e-services and may also be obtained by calling the Department toll-free at (800) 352-3671 ~~or (850) 488-6800~~. Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331 or (850) 922-1115.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, ~~28.36, 28.37(4)~~, 213.13, ~~213.131~~, 219.07, 316.0083, 322.20(11), 721.8561 FS. History-New 8-19-02, Amended 6-1-09,

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12-28.009 Distribution of Funds Received by the Department.

(1) Upon receiving a Clerk's payment information and associated remittance information, the Department will verify that the funds for subsequent distribution reconcile with the associated remittance information submitted to the Department ~~provided by the Clerk~~.

(2) Within two working days of receiving an accurate payment ~~from the Clerk~~, the Department will make all required entries in the State accounting system. These entries will be based on the remittance detail for the appropriate trust fund or agency as designated in statute.

~~(3) If the Department determines, or is notified by a clerk's office or benefiting agency, that there has been an error made in the submission of the remittance amount, the payment information for such remittance, or the associated remittance information for those funds deposited in a departmental fund, the Department will hold the funds in the Department of Revenue Clerks of the Court Trust Fund until the Clerk has been contacted and the error has been corrected. In the case of errors in deposits to other agencies, the Department will assist the affected parties in correcting the error.~~

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.245, ~~28.36, 28.37(4)~~, 213.13, ~~213.131~~, 219.07, 316.0083, 322.20(11), 721.8561 FS. History-New 8-19-02, Amended 6-1-09,

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NAME OF PERSONS ORIGINATING PROPOSED RULES: Janet L. 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: Governor and Cabinet.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 24, 2010 (Vol. 36, No. 38, pp. 4557-4558). A rule development workshop was held on October 11, 2010. A technical change was made in response to oral comments received by telephone prior to the workshop. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

MULTITAX CREDITS

RULE NO: RULE TITLE:

12-29.001 Scope

12-29.002 Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward;
 Rescindment

12-29.003 Florida Tax Credit Scholarship Program; Applications

PURPOSE AND EFFECT: The purpose of establishing Rule Chapter 12-29, F.A.C. (Multitax Credits), is to establish a rule chapter to set forth rules to be used in the administration of tax credit programs that authorize eligible taxpayers to receive tax credits against more than one tax.

The Florida Tax Credit Scholarship Program, as amended by Chapter 2010-24, L.O.F., allows taxpayers to receive a credit allocation for contributions made to nonprofit scholarship funding organizations. The referenced law expands the tax credits against corporate income tax and insurance premium tax, transferring Section 220.187, F.S., to new Section 1002.395, F.S., creating Sections 211.0251, 212.1831, 220.1875, and 561.1211, F.S., and amending Section 624.51055, F.S.

Beginning July 1, 2010, taxpayers were allowed to apply for a credit allocation for contributions to a nonprofit scholarship funding organization for a tax credit against excise taxes on liquor, wine, and malt beverages administered by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation. Beginning January 1, 2011, certain taxpayers are allowed to apply for a credit allocation to be taken as a tax credit against sales and use tax, and taxpayers who pay the tax on oil and gas production in Florida are

allowed to apply for a credit allocation to be taken as a tax credit.

When in effect, this rule chapter will establish rules for administering the tax credits for contributions made to nonprofit scholarship funding organizations under Section 1002.395, F.S., Florida Tax Credit Scholarship Program, including the procedures and applications governing the approval of tax credit allocations and rescindments, the procedures to be followed by taxpayers when claiming tax credits on tax returns, and the procedures to obtain approval to carry forward tax credits to a subsequent tax year.

SUMMARY: Proposed Rule Chapter 12-29, F.A.C. (Multitax Credits), provides for the administration of tax credit programs which authorize eligible taxpayers tax credits against more than one tax imposed under Florida law.

Proposed Rule 12-29.001, F.A.C. (Scope), provides that Rule Chapter 12-29, F.A.C., sets forth the rules to be used in the administration of tax credits for contributions made to nonprofit scholarship funding organizations under Section 1002.395, F.S., Florida Tax Credit Scholarship Program.

Proposed Rule 12-29.002, F.A.C. (Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment): (1) provides the taxpayers eligible to participate in the Florida Tax Credit Scholarship Program and when those taxpayers are authorized under Chapter 2010-24, L.O.F., to participate in the Program; (2) requires eligible taxpayers to apply on-line using the Department's website, or to file Form DR-116000, Application for Tax Credit Contributions to Nonprofit Scholarship Funding Organizations, with the Department, to receive a credit allocation from the tax cap authorized by the law; (3) establishes the procedures the Department will use to notify an applicant of the taxpayer's credit allocation; (4) establishes the procedures for claiming the credit allocation as a tax credit on a tax

return; (5) provides that a contribution to an eligible nonprofit scholarship funding organization must be made by an eligible taxpayer prior to taking a tax credit on a tax return; (6) establishes procedures for taxpayers to carry forward a tax credit for a period of up to three years when a taxpayer's tax liability is insufficient to take the full amount of the tax credit; and (7) establishes procedures for taxpayers who are unable to use a credit allocation to apply on-line with the Department or to submit Form DR-116100, Application for Rescindment of Tax Credit Allocation to Nonprofit Scholarship Funding Organizations, to rescind that credit and when those funds are eligible to other taxpayers for that state fiscal year.

Proposed Rule 12-29.003, F.A.C. (Florida Tax Credit Scholarship Program; Applications), adopts, by reference, applications used by the Department in the administration of the Florida Tax Credit Scholarship Program and provides how to obtain copies of those applications.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding regulatory costs, or to 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), 1002.395(13) FS.

LAW IMPLEMENTED: 92.525(1)(b), 211.0251, 212.1831, 213.37, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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).

PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Revenue Program Administrator, 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 12-29, FLORIDA ADMINISTRATIVE CODE
MULTITAX CREDITS
CREATING RULES 12-29.001 THROUGH 12-29.003

12-29.001 Scope. This rule chapter sets forth the rules to be used in the administration of tax credits for contributions made to nonprofit scholarship funding organizations under Section 1002.395, F.S., Florida Tax Credit Scholarship Program. That program allows taxpayers to receive a credit allocation for contributions made to nonprofit scholarship funding organizations. This rule chapter establishes procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns. Rulemaking Authority 1002.395(13) F.S. Law Implemented 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS. History-New _____.

12-29.002 Florida Tax Credit Scholarship Program; Participation; Allocation; Carryforward; Rescindment.

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

(a) “Contribution” means an eligible contribution, as defined in Section 1002.359(2), F.S., made to an eligible nonprofit scholarship funding organization.

(b) “Credit allocation” means an allocation to a taxpayer of an annual tax credit cap authorized under the Florida Tax Credit Scholarship Program.

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

(d) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(e) “Eligible nonprofit scholarship funding organization” means a charitable organization as defined in Section 1002.359(2), F.S. A list of eligible nonprofit scholarship funding organizations established by the Department of Education is available at www.floridaschoolchoice.org/.

(f) “State fiscal year” means the annual period beginning July 1 through June 30 of the following year.

(g) “Tax credit cap” means the maximum annual tax credit amount that the Department is authorized in Section 1002.395(5), F.S., to allocate. The Department will issue a Tax Information Publication to announce increases in the maximum annual tax credit amount.

(2) TAXPAYERS ELIGIBLE TO PARTICIPATE IN THE PROGRAM. Taxpayers who pay any of the following taxes may apply to the Department for a credit allocation as follows:

(a) For the taxes administered by the Department:

1. Florida corporate income tax imposed under Chapter 220, F.S.

2. Florida insurance premium tax imposed under Section 624.509, F.S.

3. Taxpayers who hold a valid Sales and Use Tax Direct Pay Permit, issued by the Department, as provided in Section 212.183, F.S., and Rule 12A-1.0911, F.A.C.

4. Taxpayers who pay tax on oil production in Florida imposed under Section 211.02, F.S., or who pay tax on gas production in Florida imposed under Section 211.025, F.S.

5. Taxpayers who were eligible for tax credits authorized by Sections 220.187 and 624.51055, F.S., prior to July 1, 2010, remain eligible for the tax credit now authorized by

Section 1002.395, F.S.

(b) For excise taxes administered by the Division:

1. Excise tax on liquor beverages imposed under Section 565.12, F.S.:

2. Excise tax on wine beverages imposed under Section 564.06, F.S., except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida; or,

3. Excise tax on malt beverages imposed under Section 563.05, F.S.

(3) APPLICATIONS FOR CREDIT ALLOCATIONS.

(a) To receive a credit allocation, taxpayers must apply on-line using the Department's website at www.myflorida.com/dor/taxes/tax_incentives.html or submit an Application for Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116000, incorporated by reference in Rule 12-29.003, F.A.C.) to the Department.

1. Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply online using the Department's website. When the application is completed and submitted online, a confirmation number will be provided to confirm receipt of the application.

2. The fastest and easiest way to apply for the credit is to use the online application. Taxpayers who do not meet these requirements are encouraged to apply online. However, such taxpayers may apply for a credit allocation by filing a paper application with the Department.

(b) A separate application to receive a credit allocation is required for:

1. Each eligible nonprofit scholarship funding organization the taxpayer intends to support; and

2. Each beverage license issued by the Division for which a separate return to report and pay the excise taxes on liquor, wine, and malt beverages is filed with the Division.

(c) Taxpayers are eligible to apply during the following periods to receive a credit allocation from each annual tax credit cap for the following taxes as follows:

1. Corporate Income Tax - A taxpayer may make an application for a credit allocation on the first business day of January of each calendar year for its tax year that begins during that calendar year. The application must be made on or before the last day of the taxpayer's corporate income tax year.

a. Example: A calendar year taxpayer may apply for a credit allocation for the 2011-2012 state fiscal year credit beginning on January 3, 2011. The application must be made on or before December 31, 2011.

b. Example: A taxpayer with a tax year beginning December 1, 2011, and ending November 30, 2012, may apply for a credit allocation for the 2011-2012 state fiscal year beginning on January 3, 2011. The application must be made on or before November 30, 2012.

2. Insurance Premium Tax - An application for a credit allocation may be made beginning on the first business day of January of each calendar year and may not be made after December 31 of that calendar year. Example: For the 2011-2012 state fiscal year tax credit cap, a taxpayer may submit an application for a credit allocation beginning on January 3, 2011. The application must be made on or before December 31, 2011.

3. Sales and Use Tax - Tax on Oil and Gas Production - Excise Taxes on Liquor, Wine, and Malt Beverages - A taxpayer may make an application for a credit allocation on the first business day of January of the calendar year preceding the state fiscal year beginning on July 1 of the calendar year. The application must be made by June 30 of the state fiscal year for which the taxpayer is applying. For example, for a credit allocation for the 2011-2012 state fiscal year, taxpayers may apply for a credit allocation beginning on January 3, 2011. The application must

be made on or before June 30, 2012.

(d) The Department will accept applications until the tax credit cap is reached, until the end of the state fiscal year, or until the end of the tax year for corporate income tax and insurance premium tax, whichever occurs first.

(4) NOTIFICATION.

(a) The Department will approve credit allocations on a first-come, first-served basis. Within ten days of receipt of an application, the Department will send written correspondence regarding the amount of the credit allocation for each tax applied for, or the reason the credit allocation could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the credit allocation before the Department will issue such correspondence.

(b) When approved, the Department's approval letter will specify the period in which the contribution to the designated nonprofit scholarship funding organization must be made. Contributions must be made during the year specified in the approval letter. The organization receiving a contribution will issue the taxpayer a certificate of contribution signed by an officer or authorized representative of the organization containing:

1. Contributor's name;
2. Contributor's federal identification number;
3. Contributor's license number issued by the Division, if applicable;
4. Amount of contribution;
5. Date of contribution; and
6. Name of eligible nonprofit scholarship funding organization.

(c) The amount of tax credit claimed on a tax return is limited to the amount of

contribution contained in the certificate of contribution issued by an eligible nonprofit scholarship funding organization. The taxpayer must make the contribution before the credit is claimed on a tax return.

(d) No tax credit will be allowed when a taxpayer:

1. Fails to make the designated contribution;

2. Fails to make a contribution before claiming the tax credit on a tax return;

3. Claims the credit against tax due prior to the date the contribution is made;

4. Makes a contribution to an ineligible organization; or,

5. Makes the contribution outside the period specified in the Department's approval letter.

(e) When an eligible nonprofit scholarship funding organization is unable to accept the taxpayer's contribution, or a part of the contribution, because of its obligations under Section 1002.395, F.S., the taxpayer may make a contribution or partial contribution to another eligible nonprofit scholarship funding organization. The organization unable to accept the taxpayer's contribution must provide a written statement to the taxpayer declining the contribution. The taxpayer is required to keep the written statement with its books and records.

(5) TAX CREDITS.

(a)1. Corporate Income Tax - A tax credit of 100 percent of the contribution against any corporate income tax due for the tax year is allowed. The amount of the tax credit for a tax year:

a. Is limited to 75 percent of the corporate income tax due after application of any other allowable credits taken by the taxpayer for that tax year;

b. Must be reduced by the difference in federal corporate income tax due computed with the credit and without the credit; and

c. Must be added back to taxable income in determining Florida corporate income tax

due.

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(b)1. Insurance Premium Tax - A tax credit of 100 percent of the contribution against any insurance premium tax due under Section 624.509(1), F.S., for the tax year is allowed. The amount of the tax credit for a tax year is limited to 75 percent of the tax due after deducting:

a. Assessments made pursuant to Section 440.51, F.S. (workers compensation administrative assessments);

b. Credits for taxes paid under Sections 175.101 and 185.08, F.S. (firefighters' and police officers' pension trust funds); and,

c. Credits for income taxes and emergency excise taxes paid under Chapters 220 and 221, F.S., and the salary credit allowed under Section 624.509(5), F.S., as these are limited by Section 624.509(6), F.S. (the 65 percent limitation).

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(c)1. Sales and Use Tax - Beginning January 1, 2011, a tax credit of 100 percent of the contribution is allowed against any sales and use tax due imposed under Chapter 212, F.S., to any taxpayer who holds a valid Sales and Use Tax Direct Pay Permit issued by the Department.

2.a. Taxpayers must submit a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to:

Florida Department of Revenue

Revenue Accounting

P. O. Box 6609

Tallahassee, FL 32314-6609

b. Within ten days of receipt of the copy of the certificate, the Department will send written instructions on how to claim the credit allocation as a tax credit on a sales and use tax return remitted to the Department by electronic means.

(d)1. Tax on Oil and Gas Production - A tax credit of 100 percent of the contribution is allowed against any tax due on oil or gas production in Florida imposed under Sections 211.02 and 211.025, F.S. The tax credit may not exceed 50 percent of the tax due on the return on which the tax credit is taken.

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(e)1. Excise Tax on Liquor, Wine, and Malt Beverages - A tax credit of 100 percent of the contribution is allowed against the following taxes administered by the Division.

a. Excise tax on liquor beverages imposed under Section 565.12, F.S.;

b. Excise tax on wine beverages imposed under Section 564.06, F.S., except excise taxes imposed on wine produce by manufacturers in Florida from products grown in Florida; or,

c. Excise tax on malt beverages imposed under Section 563.05, F.S.

2. The tax credit taken on a return filed with the Division is limited to 90 percent of the tax due on the return. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit

allocation, or a portion of the credit allocation, is taken as a tax credit.

(f) Contributions to an eligible nonprofit scholarship funding organization are not payments of estimated tax or installment payments of tax.

(6) CARRYFORWARD OF UNUSED CREDITS.

(a) When a taxpayer is unable to use a tax credit during the period specified by the Department in the approval letter, because the taxpayer's liability is insufficient, the taxpayer may apply to carry forward the unused tax credit amount for a period not to exceed three years. Taxpayers must apply on-line using the Department's website at www.myflorida.com/dor/taxes/tax_incentives.html or submit an Application for Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116000, incorporated by reference in Rule 12-29.003, F.A.C.) requesting approval to carry forward the unused portion of the tax credit during the year in which the taxpayer wants to carry forward the unused tax credit. Applications to carry forward amounts beyond the three-year period will not be accepted by the Department. See paragraph (3)(a) for submitting the application to the Department.

(b) A separate application to carry forward an unused tax credit is required for each beverage license issued by the Division for which a separate return to report and pay the excise taxes on liquor, wine, and malt beverages is filed with the Division.

(c) Within ten days of receipt of the application, the Department will send written correspondence regarding the amount of the credit carryforward, or the reason the carryforward request could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the carryforward before the Department will issue such correspondence. No request will be approved when the application for a credit allocation carryforward is submitted for a period beyond three years from the year in which the credit allocation was approved.

(d) Examples.

1. Corporate Income Tax Example - A calendar year taxpayer applied for and was approved for a credit allocation against corporate income tax for the year ending December 31, 2011. To carry forward the unused portion of the credit allocation from its tax year ending December 31, 2011, to its tax year ending December 31, 2012, the taxpayer must apply to the Department, specifying the carryforward amount, on or after January 3, 2012. The application must be filed on or before December 31, 2012. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion. Any unused carryforward from its tax year ending December 31, 2011, expires on December 31, 2014.

2. Insurance Premium Tax Example - A taxpayer applied for and was approved for a credit allocation against insurance premium tax due for calendar year 2010. To carry forward the unused portion of the credit allocation that was not taken on the 2010 insurance premium tax return (due March 1, 2011) to the 2011 insurance premium tax return, the taxpayer must apply to the Department, specifying the carryforward amount, on or after January 3, 2011. The application must be filed and approved on or before December 31, 2011. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion. Any unused carryforward from its tax year ending December 31, 2010, expires on December 31, 2013.

3. Sales and Use Tax Example - A taxpayer who holds a Sales Tax Direct Pay Permit applied for and was approved for a credit allocation against sales and use tax due to the Department for the state fiscal year 2011-2012. The taxpayer paid the contribution to an eligible nonprofit scholarship funding organization on July 15, 2011, and submitted a copy of the certificate of contribution received from the organization to the Department. The taxpayer's

liability was insufficient to use the entire credit allocation on sales and use tax returns filed with the Department on or before June 30, 2012. To carry forward the unused portion of the tax credit to the 2012-2013 state fiscal year, the taxpayer must apply to the Department, specifying the carryforward amount during the 2012-2013 state fiscal year. The application must be filed and approved, and any approved carryforward must be taken on a sales and use tax return filed on or before June 30, 2013. If any unused portion of the credit allocation remains, the taxpayer must apply for a carryforward of the unused portion to be used during the following state fiscal year. Any unused carryforward from the 2011-2012 state fiscal year expires June 30, 2015.

4. Tax on Oil and Gas Production - The same application periods and credit carryforward periods that apply to a sales and use tax credit allocation apply to a credit allocation against the tax on oil and gas production.

5. Excise Taxes on Liquor, Wine, and Malt Beverages Example - A taxpayer who holds a liquor license issued by the Division applied for and was approved for a credit allocation against the liquor excise tax for returns due during the state fiscal year 2011-2012. The taxpayer's liability was insufficient to use the entire credit allocation during that state fiscal year. To carry forward the unused portion of the tax credit to the 2012-2013 state fiscal year, the taxpayer must apply to the Department, specifying the carryforward amount during the 2012-2013 state fiscal year. The application must be filed and approved, and any approved carryforward must be taken on a return filed with the Division, on or before June 30, 2013. If any unused portion of the credit allocation remains, the taxpayer must apply for a carry forward of the unused portion to be used during the following state fiscal year. Any unused carryforward from the 2011-2012 state fiscal year expires June 30, 2015.

(e) A taxpayer may not convey, assign, or transfer a credit allocation to another entity

unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

(7) RESCINDMENT OF UNUSED TAX CREDITS.

(a) The rescindment provision allows credit allocations that will not be used by the taxpayer to be reallocated to other taxpayers who may use the credit allocation. Taxpayers must apply on-line using the Department's website at www.myflorida.com/dor/taxes/tax_incentives.html or submit an Application for Rescindment of Tax Credit Allocation for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116100, incorporated by reference in Rule 12-29.003, F.A.C.) to the Department to rescind all or a portion of an unused credit allocation. See paragraph (3)(a) for submitting the application to the Department.

(b) An application for rescindment of the unused credit allocation by the Department will not be approved when:

1. The amount of credit allocation requested to be rescinded has been claimed as a credit on a previously filed return;

2. The taxpayer has had more than one approved rescindment of credit within the last three tax years; or,

3. The allocation year is closed for all taxpayers. The allocation period for a calendar year is closed for all taxes and all taxpayers on November 30 of the subsequent calendar year.

(c) Within ten days of receipt of an application, the Department will send written correspondence regarding the amount of the rescindment, or the reason rescindment could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the rescindment before the Department will issue such correspondence.

(d) When the approval of a rescindment allows the tax credit cap for a state fiscal year to be reopened and available for allocation, the Department will notify each nonprofit scholarship funding organization that the tax credit cap is available for allocation.

Rulemaking Authority 1002.395(13) F.S. Law Implemented 92.525(1)(b), 211.0251, 212.1831, 213.37, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS. History-New

12-29.003 Florida Tax Credit Scholarship Program; Applications.

(1)(a) The following application forms and instructions are used by the Department in its administration of the Florida Tax Credit Scholarship Program. These forms are hereby incorporated by reference in this rule.

(b) Copies of the application forms and instructions are available, without cost, by one or more of the following methods: 1) downloading the application from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) 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 or, 4) writing the Florida Department of Revenue, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
<u>(2)(a) DR-116000</u>	<u>Application for Tax Credit Allocation for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 02/11)</u>	—
<u>(b) DR-116100</u>	<u>Application for Rescindment of Tax Credit Allocation for Contributions to Nonprofit</u>	

Scholarship Funding Organizations (SFOs)

(R. 01/11)

Rulemaking Authority 213.06(1), 1002.395(13) F.S. Law Implemented 92.525(1)(b), 211.0251,
212.1831, 213.37, 220.1875, 561.1211, 624.51055, 1002.395(1)-(3), (13) FS. History-New

_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Robert DuCasse, Revenue Program Administrator, 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: Governor and Cabinet.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 24, 2010 (Vol. 36, No. 38, pp. 4558-4559). A rule development workshop was held on October 11, 2010. Changes were made in response to oral comments received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INSURANCE PREMIUM TAXES, FEES AND SURCHARGES

RULE NO: RULE TITLE:

12B-8.001 Premium Tax; Rate and Computation

PURPOSE AND EFFECT: The Florida Tax Credit Scholarship Program, as amended by Chapter 2010-24, L.O.F., allows taxpayers to receive a credit allocation for contributions made to nonprofit scholarship funding organizations. This law expands the tax credits against corporate income tax and insurance premium tax, transferring Section 220.187, F.S., to new Section 1002.395, F.S., and amending Section 624.51055, F.S. Taxpayers continue to be allowed to apply for a credit allocation to be taken as a tax credit against insurance premium tax, as provided in Section 624.51055, F.S., as amended by Section 11, Chapter 2010-24, L.O.F. When in effect, proposed Rule Chapter 12-29, F.A.C., Multitax Credits, will establish the procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns.

The purpose of the proposed changes to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to remove provisions regarding the credit against insurance premium tax for contributions made to eligible nonprofit scholarship funding organizations that will be provided in Rule Chapter 12-29, F.A.C., when effective.

SUMMARY: The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), remove provisions and provide a reference to the rule chapter containing provisions for tax credits for contributions made to eligible nonprofit scholarship funding

organizations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding regulatory costs, or to 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), 624.5105(4)(b), 1002.395(13) FS.

LAW IMPLEMENTED: 624.509, 624.51055, 1002.395 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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).

PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert DuCasse, Revenue Program Administrator, 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 RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.001

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a) through (e) No change.

(f) Credit for Contributions to Nonprofit Scholarship Funding Organizations. See Rule Chapter 12-29, F.A.C., for provisions on credits against the tax for contributions made to eligible nonprofit scholarship funding organizations.

~~1. Section 624.51055, F.S., provides a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization, as provided in Section 220.187, F.S., against any net tax due for a taxable year under Section 624.509(1), F.S. However, the credit may not exceed 75 percent of the tax due under Section 624.509(1), F.S., after deducting from such tax:~~

~~a. Deductions for assessments made pursuant to Section 440.51, F.S. (workers compensation administrative assessments);~~

~~b. Credits for taxes paid under Sections 175.101 and 185.08, F.S. (firefighter's and police officers' pension trust funds); and,~~

~~c. Credits for income taxes and emergency excise taxes paid under Chapters 220 and 221,~~

~~F.S., and the salary credit allowed under Section 624.509(5), F.S., as these are limited by Section 624.509(6), F.S. (the 65 percent limitation).~~

~~2. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.~~

~~3. The provisions of Section 220.187, F.S., regarding definitions, the credit application process, the rescindment provisions, the preservation of credit provisions, and the administrative provisions, including the three year credit carryover provision, and the provisions of Rule 12C-1.0187, F.A.C., apply to the credit against the insurance premium tax for contributions to nonprofit scholarship funding organizations.~~

~~4. Applicants subject to the insurance premium tax imposed under Section 624.509(1), F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability.~~

(4) through (9) No change.

Rulemaking Authority 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(4)(b) 1002.395(13) FS.
Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), ~~220.187~~, 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2), 1002.395 FS. History-New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, 9-1-09, 4-26-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator, 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 RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 24, 2010 (Vol. 36, No. 38, p. 4561). A rule development workshop was held on October 11, 2010. No comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0186 Credit for Florida Alternative Minimum Tax

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations

12C-1.051 Forms

PURPOSE AND EFFECT: The Florida Tax Credit Scholarship Program, as amended by Chapter 2010-24, L.O.F., allows taxpayers to receive a credit allocation for contributions made to nonprofit scholarship funding organizations. This law expands the tax credits against corporate income tax and insurance premium tax, transferring Section 220.187, F.S., to new Section 1002.395, F.S., and creating Section 220.1875, F.S., to provide for the tax credit against corporate income tax. The proposed changes to Rule Chapter 12C-1, F.A.C., are necessary to update reference to the new law for purposes of the credit for the Florida alternative minimum tax and to remove rule provisions and forms relating to tax credits for contributions to nonprofit scholarship funding organizations prior to July 1, 2010. When in effect, proposed Rule Chapter 12-29, F.A.C. (Multitax Credits), will establish the procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns.

SUMMARY: The proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), update the reference to the credits for contributions to nonprofit scholarship funding organizations to Section 220.1875, F.S., as provided in Sections 10 and 11, Chapter 2010-24, L.O.F.

The proposed repeal of Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), removes provisions regarding the credit against corporate income tax for contributions made to eligible nonprofit scholarship funding organizations that will be provided in Rule Chapter 12-29, F.A.C., when effective.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), remove the obsolete application to obtain an allocation of the tax credit for contributions made to eligible nonprofit scholarship funding organizations and the obsolete application to rescind a credit allocation. Applications used to administer the Florida Tax Credit Scholarship Program will be provided in Rule Chapter 12-29, F.A.C. (Multitax Credits), when effective.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an adverse impact on small business. A Statement of Estimated Regulatory Cost has not been prepared by the agency. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 220.51, 1002.395(13) FS.

LAW IMPLEMENTED: 220.131, 220.186, 220.1875, 624.51055, 1002.395 FS.

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

DATE AND TIME: April 11, 2011, 10:30 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 2503, 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 Tammy Miller at (850) 617-8346. 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).

PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Revenue Program Administrator, 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-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0186, AND 12C-1.051
REPEAL RULE 12C-1.0187

12C-1.0186 Credit for Florida Alternative Minimum Tax.

(1) If the Florida alternative minimum tax is paid pursuant to Section 220.11(3), F.S., or the Florida alternative minimum tax is offset by the credits provided in Section 220.1875 ~~220.187~~ or 220.193, F.S., an alternative minimum tax credit is allowed by Section 220.186, F.S., in subsequent years.

(2) The amount of the alternative minimum tax credit is equal to the excess of the alternative minimum tax paid over the amount of regular corporate income tax without application of the credits provided in Section 220.1875 ~~220.187~~ or 220.193, F.S., that would have otherwise been due. There is no limitation on the total dollar amount of the credit.

(3) through (4) No change.

Rulemaking Authority 213.06(1), ~~220.187(12)~~, 220.193(4), 220.51, 1002.395 FS. Law Implemented 220.186, 220.1875, ~~220.187~~ 220.193 FS. History—New 12-7-92, Amended 4-26-10, _____.

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations.

~~(1) An Application for Corporate Income Tax and Insurance Premium Tax Credit for~~

~~Contributions to Nonprofit Scholarship Funding Organizations (Form F-1160, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to receive such credit. Applicants subject to the insurance premium tax imposed under Section 624.509, F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability. All other taxpayers may only claim the credit for eligible contributions made to a nonprofit scholarship funding organization against their corporate income tax liability. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.~~

~~(a) Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply online via the Department's Internet site at www.myflorida.com/dor. When the application for credit has been completed and submitted electronically, a confirmation screen will provide a confirmation number and will confirm receipt of the electronic application for credit.~~

~~(b) Taxpayers who are not required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., are encouraged to apply online via the Department's Internet site at www.myflorida.com/dor. However, such taxpayers may apply for an allocation of credit by filing a paper version of Form F-1160 with the Department.~~

~~(c) The Department will send written correspondence to each applicant within ten working days of receipt of application (Form F-1160) regarding the amount of the tax credit approved or the reason the credit could not be approved.~~

~~(2) If the nonprofit scholarship funding organization named in the approval letter is unable to accept a contribution, in whole or in part, as a result of its obligations under Section~~

~~220.187, F.S., and it provides a written statement declining the contribution, the taxpayer may make the contribution, in whole or in part, to another eligible nonprofit scholarship funding organization. Contributions must be made during the tax year specified in the approval letter.~~

~~(3) If a taxpayer receives an approval letter from the Department of Revenue, but fails to make the contribution, no credit is allowed. If a taxpayer receives an approval letter from the Department of Revenue, but makes the contribution to an ineligible organization, or a nonprofit scholarship funding organization does not accept the contribution, no credit is allowed. If the contribution is made outside the tax year for which the credit was approved, no credit is allowed.~~

~~(4) A taxpayer is required to make a separate application for each nonprofit scholarship funding organization it intends to support or any carry forward credit it would like to use.~~

~~(5) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed three years. Any taxpayer that seeks to carry forward an unused amount of credit must submit Form F-1160 to the Department in the year that the taxpayer intends to use the carry forward amount. The Department will send written correspondence to the applicant within ten working days regarding the amount of carry forward credit that the taxpayer may use or the reason the Department could not approve the use of a carry forward credit.~~

~~(6) A taxpayer may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.~~

~~(7) A taxpayer may apply to the Department for rescindment of all or part of a previously approved credit allocation for a contribution to a nonprofit scholarship funding organization, or a credit carryforward. The rescindment will be approved unless: (1) the taxpayer has had more~~

~~than one approved rescindment of this credit within the last three (3) tax years; (2) the previously approved credit allocation amount to be rescinded has been claimed as a credit on a previously filed Florida corporate income tax or insurance premium tax return; or (3) the allocation year is closed for all taxpayers. The allocation for a particular year is closed for all taxpayers at the end of the subsequent calendar year. For example, the allocation year beginning January 1, 2009, closes for all taxpayers on December 31, 2010, regardless of whether the annual allotment has been reached, because there are no more tax years remaining open that began in calendar year 2009 as of December 31, 2010.~~

~~(a) An Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form F-1161, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to rescind all or part of a previously approved credit allocation or credit carryforward allocation.~~

~~(b)1. Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply for rescindment of all or part of a previously approved credit allocation for a contribution to a nonprofit scholarship funding organization, or a credit carryforward, online via the Department's Internet site at www.myflorida.com/dor. When the application for rescindment has been completed and submitted electronically, a confirmation screen will provide a confirmation number and will confirm receipt of the electronic application for rescindment.~~

~~2. Taxpayers who are not required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., are encouraged to apply for the rescindment of a credit allocation for a contribution to a nonprofit scholarship funding~~

organization by applying online via the Department's Internet site. However, such taxpayers may apply for a rescindment by filing a paper version of Form F-1161 with the Department.

(c) The Department will send written correspondence to each rescindment applicant within ten working days of receipt of the application for rescindment regarding the amount of the rescindment or the reason the rescindment could not be approved.

(d) If the approval of a rescindment reopens the credit allocation for a year in which the annual allotment had previously been reached, the Department will notify each nonprofit scholarship funding organization that additional credit is available for allocation for that year.

Rulemaking Authority 213.06(1), 220.187, 220.51 FS. Law Implemented 213.05, 213.35, 213.755, 220.03(1), 220.131, 220.187, 220.44, 624.51055 FS. History-New 3-15-04, Amended 4-5-07, 4-26-10, Repealed.

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
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(2) through (11) No change.

(12)(a) F-1160	Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations	
	(R. 07/09)	04/10

(b) F-1161

~~Application for Rescindment of Corporate
Income Tax and Insurance Premium Tax
Credit for Contributions to Nonprofit
Scholarship Funding Organizations~~

~~(R. 07/09)~~

04/10

(13) through (15) Renumbered (12) through (14) No change.

Rulemaking Authority 213.06(1), ~~220.187~~, 220.192(7), 220.193(4), 220.51, 1002.395(13) FS.

Law Implemented 119.071(5), 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 ~~220.187~~,
220.1895, 220.19, 220.191, 220.192, 220.193, 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, 624.51055, 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, 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Robert DuCasse, Revenue Program Administrator, 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: Governor and Cabinet.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: February 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 24, 2010 (Vol. 36, No. 38, pp. 4561-4562). A rule development workshop was held on October 11, 2010. No comments were received by the Department.