

Notice of Proposed Rule

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

[12-24.001](#): Scope of Rules

[12-24.002](#): Definitions

[12-24.003](#): Requirements to File or to Pay Taxes by Electronic Means

[12-24.004](#): Enrollment

[12-24.010](#): General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements

PURPOSE AND EFFECT: Section 27, Chapter 2020-10, Laws of Florida, amended section 443.163, F.S., repealing the requirement for reemployment tax agents who prepared and reported for 100 or more employees in any quarter during the preceding state fiscal year to file the Employer's Quarterly Report (Form RT-6) by electronic means. This law also requires those employers required to file the Employer's Quarterly Report (Form RT-6) by electronic means must file corrections to those reports by electronic means. The purpose of the proposed amendments is to update the rule to reflect these statutory changes.

SUMMARY: Amendments to Rules 12-24.001, 12-24.002, 12-24.003, 12-24.004, and 12-24.010, F.A.C., remove requirements for certain reemployment tax agents to electronically file reemployment tax reports and updates the requirement for filing corrections to the Employer's Quarterly Report by electronic means.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences regarding rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: [202.26\(3\)\(a\)](#), [206.485\(1\)](#), [213.06\(1\)](#), [213.755\(8\)](#), (9), [220.21\(2\)](#), (3), [443.1317](#), [443.163\(1\)](#), F.S.

LAW IMPLEMENTED: [119.071\(5\)](#), [202.30](#), [206.485](#), [213.755](#), [220.21\(2\)](#), (3), [443.163](#), F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

12-24.001 Scope of Rules.

Part I of this rule chapter sets forth the rules to be used by the Department of Revenue in the administration of ~~Sections sections~~ 202.30, 206.485, 213.755, and 220.21(2) and (3), F.S., authorizing the Executive Director to require taxpayers specified by statute or rule to pay taxes and fees and to file tax returns by electronic means. Part I of this rule chapter also sets forth the rules to be used by the Department in administering ~~Section section~~ 443.163, F.S., ~~authorizing the Executive Director to require reemployment tax agents specified by statute or rule to pay taxes and to file returns by electronic means.~~

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS. History—New 12-19-89, Amended 10-24-96, 4-30-02, 10-5-03, 6-1-09, 2-17-15, XX-XX-XX.

12-24.002 Definitions.

For the purposes of ~~Part part~~ I of this rule chapter, the terms and phrases used in these rules shall have the meanings prescribed in this section.

(1) through (14) No change

(15) “Reemployment tax agent” means a person who submits a payment or an Employer’s Quarterly Report (Form RT-6, incorporated by reference in Rule 73B-10.037, F.A.C.) on behalf of an employer, that prepared and reported the Employer’s Quarterly Report (Form RT-6) for 100 or more employers in any calendar quarter in the preceding state fiscal year. For the purposes of this definition, “prepared and reported” means the completion of the Employer’s Quarterly Report (Form RT-6) and the submission of the completed report directly to the Data Collection Center. An reemployment tax agent is not required to pay taxes by electronic means, but if the agent voluntarily chooses to submit payment by electronic means, the payment must be submitted in accordance with these rules.

(16) through (19) No change

(20) “Tax type” means a tax, surtax, surcharge, or fee that is subject to remittance of payments, and the submission of tax returns, information reports, or data, by electronic means to the Department. The tax types for which taxpayers ~~or reemployment tax agents~~ will be required to pay amounts due and/or submit tax returns, information reports, or data by electronic means are as follows:

(a) through (o) No change

(p) Solid waste fees, including the new tire fee (waste tire fee) and the new or remanufactured battery fee; ;

(21) through (22) No change

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS. History—New 12-19-89, Amended 1-8-91, 10-24-96, 4-30-02, 10-5-03, 6-1-09, 2-17-15, XX-XX-XX.

12-24.003 Requirements to File or to Pay Taxes by Electronic Means.

(1) No change

(2) The following taxpayers must pay taxes, surtaxes, surcharges, and fees and file tax returns by electronic means during the succeeding calendar year when the taxpayer:

(a) through (d) No change

(e) Filed an Employer’s Quarterly Report (Form RT-6, incorporated by reference in Rule 73B-10.037, F.A.C.), including a Correction to Employer’s Quarterly or Annual Domestic Report (Form RT-8A, incorporated by reference in Rule 73B-10.037, F.A.C.), for ten (10) or more employees in any calendar quarter during the preceding state fiscal year.

(3) The following taxpayers must file tax returns by electronic means:

(a) through (b) No change

~~(c) Any reemployment tax agent who prepared and reported Form RT-6 (Employer’s Quarterly Report) for 100 or more employers in any calendar quarter during the preceding state fiscal year.~~

(4) No change

(5)(a) No change

(b) The Department will notify taxpayers ~~and reemployment tax agents~~ who initially meet the requirements to participate on the basis of prior state fiscal year tax payments at their last address of record. Once notified of this requirement, the taxpayer ~~or reemployment tax agent~~ must transmit by electronic means all payments and/or returns for that tax type as provided in this rule.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, 6-28-10, 2-17-15, XX-XX-XX.

12-24.004 Enrollment.

(1)(a) On or before November 1 (January 1 for taxpayers remitting only reemployment tax), the Department will notify every taxpayer ~~or reemployment tax agent~~ required to pay a tax, surtax, surcharge, or fee, or to file a tax return by electronic means in the upcoming calendar year when:

1. The taxpayer ~~or reemployment tax agent~~ is not currently enrolled to pay that tax, surtax, surcharge, or fee or to file that tax return by electronic means; or,

2. The taxpayer ~~or reemployment tax agent~~ is voluntarily enrolled to pay or to file by electronic means and will be required to pay that tax, surtax, surcharge, or fee or to file that tax return by electronic means in the upcoming calendar year.

(b) The notification by the Department will include:

1. No change
 2. An explanation of the options from which the taxpayer ~~or reemployment tax agent~~ must choose to pay taxes or fees or to file tax returns by electronic means.
 - (2) Enrollment for e-Services Program requires the submission of the following information:
 - (a) through (e) No change
 - (f) If completed by an independent tax preparer or a ~~an~~ reemployment tax agent, the preparer's taxpayer identification number or reemployment tax agent number;
 - (g) The tax and/or fee type(s) for which the taxpayer ~~or reemployment tax agent~~ is enrolling;
 - (h) through (i) No change
 - (3) No change
 - (4) Upon receipt of enrollment information, the Department will assign confidential user information directly to ~~the enrollee the taxpayer or reemployment tax agent enrolling.~~
- Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 119.071(5), 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, 2-17-15, XX-XX-XX.*

12-24.010 General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements.

- (1) through (3) No change
 - (4)(a) The Department is authorized to waive the requirement that a taxpayer ~~or reemployment tax agent~~ submit tax returns by electronic means, if the taxpayer ~~or reemployment tax agent~~ can establish that he or she is unable to comply with e-filing requirements. To request a waiver the taxpayer ~~or reemployment tax agent~~ must complete and submit ~~Form form~~ DR-654, Request for Waiver From Electronic Filing (incorporated by reference in Rule 12-24.011, F.A.C.), to establish in writing the basis under which such waiver is requested. The Department will verify the information submitted on the form and will respond in writing to the taxpayer after reviewing the form.
 - (b) Grounds for approving a waiver include, but are not limited to:
 1. No change
 2. The taxpayer ~~or reemployment tax agent~~ does not have a modem; or
 3. The taxpayer ~~or reemployment tax agent~~ does not have access to the Internet.
 - (c) A waiver shall be valid for up to two years, and the issuance of a subsequent waiver will be contingent on the taxpayer ~~or reemployment tax agent~~ working with the Department during the current waiver period to address the issues that originally necessitated the issuance of the waiver. The requirement to work with the Department to address the issues that necessitated a waiver means the taxpayer ~~or reemployment tax agent~~ will: discuss existing computer capabilities with the Department; consider any assistance, recommendations, or training the Department offers; and implement any Department recommendation that enables the taxpayer ~~or reemployment tax agent~~ to submit returns by electronic means, unless the taxpayer ~~or reemployment tax agent~~ can establish that the circumstances or reasons as set forth in sections 202.30(2)(b), 213.755(9)(a) and (b), 220.21(2) or 443.163(3), F.S., continue to apply.
- Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, 2-17-15, XX-XX-XX.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Tammy Miller
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2020
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 2, 2020