

**12A-1.006 Charges by Dealers Who Adjust, Apply, Alter, Install, Maintain, Remodel, or Repair Tangible Personal Property.**

(1)(a) Where parts are furnished by the repairer, the entire charge the repairer makes to a customer for adjusting, applying, installing, maintaining, remodeling, or repairing tangible personal property is taxable.

(b) Materials which are actually incorporated into and become a part of the tangible personal property repaired, remodeled, or maintained, such as welding rods, solder, body solder, or other surfacing materials, paint, thinner, bolts, nuts, etc., are not taxable when purchased by the repairer. Materials and supplies used by the repairer in making such repairs, etc., but which do not become a part of the property repaired are taxable to the repairer as overhead items. For example: Tools, sandpaper, steel wool, flux, detergents, and the like are not incorporated into the repair or remodeling job and are taxable.

(2) The charges for cleaning or regulating any item of tangible personal property where lubrication occurs are taxable.

(3) The provisions of this rule do not apply to contracts covering a combination of work on both real and personal property. Such contracts are governed by the provisions of Rule 12A-1.051, F.A.C.

(4) Charges for repairs of tangible personal property which require labor or service only are taxable unless the repairer (dealer) can establish by evidence in the dealer's records that the dealer furnished no tangible personal property which was incorporated into or attached to the repaired item. It is immaterial that the cost of the material furnished is insignificant when compared to the cost of the labor involved. For maintenance contracts covering tangible personal property, refer to Rule 12A-1.105, F.A.C.

(5) Labor, parts, and materials used and actually incorporated into and becoming a component part of tangible personal property in rebuilding, repairing, or reconditioning same for resale or exclusively for leasing are exempt.

(6) Materials and supplies used in the performance of a factory or manufacturer's warranty are exempt when the contract is furnished with the new equipment guaranteed thereunder at no extra charge and such materials and supplies are paid for by the factory or manufacturer.

(7)(a) The charge for altering, repairing, or remodeling clothing is taxable. See Rule 12A-1.076, F.A.C.

(b) The charge for refinishing, restoring, or upholstering furniture is taxable.

(c) The charge for renovating mattresses is taxable.

(d) The charge for lubrication service, including grease jobs, oil changes, and the like, is taxable.

(e) The charge for repairing flat tires is taxable.

(f) The charge for sharpening bits, chains, and blades, including, but not limited to, drill bits, chain saw chains, saws, knives, and mower blades, is exempt when no carbide or any other material or substance is incorporated into or attached to the object sharpened. If any tangible product is furnished and incorporated into or attached to the object sharpened by the dealer, the total charge is taxable.

(g) The charge for wheel balancing or tire mounting is exempt when no parts, or other materials are furnished by the dealer. If any tangible product is furnished by the dealer, the total charge is taxable.

(h) The charge for sandblasting articles is exempt as cleaning service when no protective coating or covering of any substance is applied to restore, refinish, or recondition such property. If any coating or covering of any tangible product is furnished and applied by the dealer, the total charge is taxable. Cross Reference – subsection 12A-1.063(40), F.A.C.

(8) When tangible personal property is shipped into this state, repaired, and shipped back to its owner in another state by common carrier or mail, the amount charged for the repair is exempt. If tangible personal property is sent out of the state to be repaired and returned, the transaction is taxable. Taxable components of the transaction include materials, labor, handling, and packaging charges, and any other charges which are considered part of the sale. Also, see Rule 12A-1.045, F.A.C., to determine whether transportation charges are considered a part of the sale, and included as a component of the transaction.

(9) The charge for silver plating or chrome plating an article is taxable.

(10) Charges made by a taxidermist for mounting fish, fowl, or animals are taxable.

(11) Charges by an interior decorator are exempt when no materials or supplies are used.

(12) The charge for creosoting new railroad cross-ties, transmission line poles and other items is taxable.

(13) The charge for refilling a fire extinguisher is taxable.

(14) The total charges for repairing tangible personal property requiring welding or soldering are taxable.

(15)(a) The charge for a plain wash job, in which only detergent or water softener is added to the water, is exempt. The purchase of detergents or water softeners for use in the performance of the wash job is taxable to the dealer.

(b) The entire charge for a wash job, in which wax, silicones, or any other substance is added that forms a protective film or

coating, is taxable. The purchase of materials such as wax, silicones, and the like, which form a protective film or coating, is exempt to the dealer. The dealer shall extend a resale certificate to his supplier in lieu of paying tax.

(c) The purchase of machinery and equipment, parts and accessories, soaps, brushes, or other supplies for operation of a car wash facility is taxable to the dealer.

(d) Dealers who operate car wash facilities which provide both taxable and exempt wash jobs must maintain documentation to distinguish the taxable status of each transaction. In all instances where a dealer is unable to differentiate and document the taxable status of each transaction, it is presumed that all wash jobs performed at such facility are taxable.

(e)1. Dealers who operate coin-operated car wash facilities must calculate the tax at an effective rate of 6.59 percent on each taxable transaction. It is presumed that the amount charged for each taxable transaction is adjusted to include tax. To compute the correct amount of tax due, the dealer should divide the total receipts from taxable transactions by 1.0659 to compute the gross taxable sales and then subtract the gross taxable sales from the total taxable receipts to arrive at the amount of sales tax due. If the dealer is unable to distinguish between the taxable and exempt transactions, it is presumed that all wash jobs performed at such facility are taxable.

2. When a dealer who operates coin-operated car wash facilities can demonstrate to the satisfaction of the Department through its books and records that a lower rate than that which is provided in the preceding subparagraph of this rule is applicable, the tax due on a coin-operated car wash sale shall be at that rate.

3. The local option surtax effective rates for the sale of other items through vending machines in paragraph 12A-15.011(2)(b), F.A.C., are also applicable to a coin-operated car wash.

(16) Wrecker or towing charges are not subject to tax if the charge is separately stated on the customer's invoice.

(17) Repairs, alterations, or improvements to mobile homes which are not classified as real property constitute repairs, alterations, or improvements to tangible personal property and the total charge is taxable.

Cross Reference – subsection 12A-1.007(11), F.A.C.

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.06(1), (2), (5)(a)1. FS. History—New 10-7-68, Amended 6-16-72, 12-11-74, 12-31-81, Formerly 12A-1.06, Amended 7-7-92, 10-17-94, 8-15-21.*

### **12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.**

(1)(a) The sale, including occasional or isolated sales, the use, consumption, or storage for use in this state of any aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable on the full sales price without any deduction for freight, handling, delivery, commission, repossessions, advertising, future free service, or any other expense or cost whatsoever. Separately stated fees or charges as a requisite to the titling, licensing, registration, transfer of ownership, or recording of lien, or operation of any automobile in this state, mandated by the state, its subdivisions, or any state or licensed tag agency or office, shall not be included in the sales price, and as a result are not subject to tax.

(b)1. Any trade-in allowance for tangible personal property, if the sale and trade-in are one transaction, accepted by any person registered with the Department of Revenue as a dealer to engage in the business of selling aircraft, boats, mobile homes, motor vehicles, or other vehicles of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government and intended for resale by such dealer shall be excluded (deducted) from the gross sales price, and only the net sales price shall be subject to tax.

2. A separate or independent sale of an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government by either the buyer or seller of another aircraft, boat, mobile home, motor vehicle, or other vehicle is not a trade-in, even if the proceeds from the sale are immediately applied by the seller to a purchase of another aircraft, boat, mobile home, motor vehicle, or other vehicle.

3.a. When any person who is not registered with the Department of Revenue as a dealer to engage in the business of selling aircraft, boats, mobile homes, motor vehicles, or other vehicles sells an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government and accepts in part payment or full payment as trade-in or exchange an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government, the trade-in or exchange may be deducted from the sales price.

b. When any person who is not registered with the Department of Revenue as a dealer to engage in the business of selling aircraft, boats, mobile homes, motor vehicles, or other vehicles of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government, sells an aircraft, boat, mobile home, motor vehicle, or other vehicle and accepts in part payment or full payment as trade-in or exchange tangible personal property other than an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government, the trade-in or exchange may not be deducted from the sales price. The tax shall be computed on the total selling price of each aircraft, boat, mobile home, or motor vehicle.

(c) No title certificate may be issued on any aircraft, boat, mobile home, motor vehicle, or any other vehicle, or if no title certificate is required by law, no license or registration shall be issued by any state agency for any aircraft, boat, mobile home, motor vehicle, or other vehicle unless there is filed with the application for title certificate, license, or registration a receipt issued by an authorized aircraft, boat, mobile home, or motor vehicle dealer, or by the Department of Revenue or its designated agent, evidencing the payment of such tax where the same is payable.

#### **(2) Purchases Outside Florida.**

(a) There shall be a presumption that any aircraft, boat, mobile home, motor vehicle, or other vehicle purchased in another state, territory of the United States, or the District of Columbia but titled, registered, or licensed in this state is taxable except as otherwise provided in subsection (26) of this rule. This presumption may be rebutted only by documentary evidence that the person owning the aircraft, boat, mobile home, or motor vehicle purchased the aircraft, boat, mobile home, or motor vehicle in another state, territory of the United States, or the District of Columbia six (6) months or more prior to the time it is brought into this state. In order for such property to be presumed exempt as purchased for use outside Florida, the person owning the aircraft, boat, mobile home, motor vehicle, or other vehicle must provide documentary proof that such property was used in other states, territories of the United States, or the District of Columbia for six months or longer under conditions which would lawfully give rise to the taxing jurisdiction of another state, territory, or District of Columbia and any lawfully imposed tax was paid to such state, territory, or District of Columbia before being imported into this state. However, the rental or lease of any aircraft, boat, mobile home, or motor vehicle which is used or stored in this state is taxable without regard to its prior use or tax paid on the purchase outside this state.

(b) Tax shall apply and be due on any aircraft, boat, mobile home, motor vehicle, or other vehicle imported or caused to be imported from a foreign country into this state for use, consumption, distribution, or storage to be used or consumed in this state. It

is immaterial whether such aircraft, boat, mobile home, motor vehicle, or other vehicle was used in another country for a period of six months or more prior to the time it is brought into Florida. Furthermore, tax paid in another country will not be recognized by the State of Florida in arriving at the tax due.

(3) Tax Credit for Purchases Outside Florida.

(a) A credit is allowed to a person who as purchaser provides documentary evidence that a lawfully imposed sales or use tax has been paid to another state, territory of the United States, or the District of Columbia on any aircraft, boat, mobile home, motor vehicle, or other vehicle which later becomes subject to Florida tax. The credit shall be the amount of legally imposed sales and use tax paid to another state, territory of the United States, or the District of Columbia.

(b) A credit shall not be allowed for any taxes paid to a foreign country.

(4) When a veteran purchases an aircraft, boat, mobile home, motor vehicle, or other vehicle from a dealer pursuant to the provisions of s. 1902(a), Title 38, United States Code, the amount billed by the dealer to the Veterans Administration and which is paid directly to the dealer by the Veterans Administration is not taxable. However, any portion of the purchase price which is paid directly to the dealer by the veteran is taxable.

(5) When an aircraft, boat, mobile home, motor vehicle, or other vehicle dealer sells an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government to a junk dealer, the junk dealer, who is required to be a registered dealer, shall furnish the aircraft, boat, mobile home, motor vehicle, or other vehicle dealer with a resale certificate as provided in Rule 12A-1.038, F.A.C. In the absence of such resale certificate or when the aircraft, boat, mobile home, motor vehicle or other vehicle dealer sells the aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government to an unregistered individual, the sale is taxable based upon the selling price of such aircraft, boat, mobile home, motor vehicle, or other vehicle.

(6) Sales of Aircraft, Boats, Mobile Homes, Motor Vehicles, or Other Vehicles to a Nonresident Dealer for Resale Outside Florida.

(a) If delivery of any aircraft, boat, mobile home, motor vehicle, or other vehicle is made in Florida to a nonresident aircraft, boat, mobile home, motor vehicle, or other vehicle dealer who does not hold a Florida certificate of registration as an aircraft, boat, mobile home, motor vehicle, or other vehicle dealer, it is taxable unless the nonresident aircraft, boat, mobile home, motor vehicle, or other vehicle dealer furnishes the seller an exemption certificate that the aircraft, boat, mobile home, motor vehicle, or other vehicle will be transported outside of Florida by the dealer for resale and no other purpose. The burden of obtaining this evidential matter rests with the seller, who must retain the documentation to support the exempt sale.

(b) The following is a suggested statement to be used by nonresident aircraft, boat, mobile home, motor vehicle, or other vehicle dealers when purchasing any aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government which will be transported outside of Florida for resale and no other purpose.

SUGGESTED EXEMPTION CERTIFICATE:  
PURCHASE OF AIRCRAFT, BOAT, MOBILE HOME, MOTOR VEHICLE, OR OTHER VEHICLE BY  
NONRESIDENT DEALER FOR RESALE OUTSIDE FLORIDA

DATE \_\_\_\_\_ Florida Dealer: \_\_\_\_\_

Address: \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

Sales Tax No. \_\_\_\_\_

Nonresident Dealer-buyer: \_\_\_\_\_

Address: \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

Sales Tax No. \_\_\_\_\_

License No. \_\_\_\_\_

Passport or Visa Number: \_\_\_\_\_

Description of each aircraft, boat, mobile home, motor vehicle, or other vehicle sold, including make, model, identification number, and selling price, sold for purposes of resale to the nonresident dealer indicated below:

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The aircraft, boat, mobile home, motor vehicle, or other vehicle identified above will be transported outside Florida for resale and

for no other purpose. I am licensed and registered as an aircraft, boat, mobile home, motor vehicle, or other vehicle dealer in the state or country and at the address shown above.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated are true to the best of my knowledge and belief.

Signature of Nonresident Dealer \_\_\_\_\_

Address of Nonresident Dealer \_\_\_\_\_ (Street)

\_\_\_\_\_ (City) \_\_\_\_\_ (State)

(7) Aircraft, Boats, Mobile Homes, Motor Vehicles, or Other Vehicles Delivered to Purchaser Outside Florida.

(a) An aircraft, boat, mobile home, motor vehicle, or other vehicle may be sold tax exempt to a purchaser if delivery is accepted outside the State of Florida and an exemption certificate is executed by and buyer. The burden of obtaining this evidential matter rests with the seller, who must retain the proper documentation to support the exempt sale.

(b) The following is a suggested statement to be used by a Florida dealer when making sales of aircraft, boats, mobile homes, motor vehicles, or other vehicles which are delivered outside this state.

SUGGESTED EXEMPTION CERTIFICATE FOR ACCEPTANCE OF DELIVERY OF  
AIRCRAFT, BOAT, MOBILE HOME, MOTOR VEHICLE, OR OTHER VEHICLE OUTSIDE FLORIDA

Date \_\_\_\_\_

Dealer or Seller:

Name \_\_\_\_\_

Address \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

Purchaser:

Name \_\_\_\_\_

Address \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

Description of each aircraft, boat, mobile home, or motor vehicle sold, including make, model, identification number, and purchase price: \_\_\_\_\_

The delivery of the aircraft, boat, mobile home, motor vehicle, or other vehicle identified above was accepted outside Florida and will not be used in Florida under conditions which will subject said aircraft, boat, mobile home, motor vehicle, or other vehicle to Florida sales and use tax.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated are true to the best of my knowledge and belief.

Signature of Purchase \_\_\_\_\_

(8) Motor Vehicles.

(a) The sale in this state by a motor vehicle dealer of a new or used motor vehicle to a resident of another state of the United States is taxable in an amount equal to the sales tax which would be imposed on such sale in the purchaser's state of residence. A list of the sales tax rates applicable in other states and the District of Columbia is available, without cost, by one or more of the following methods: 1) writing Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; or, 2) calling the Forms Request Line during regular office hours at (850)488-6800; or, 3) downloading selected forms from the Department's website at [floridarevenue.com/forms](http://floridarevenue.com/forms). However, such tax shall not exceed the tax that would otherwise be imposed by Chapter 212, F.S. At the time of the sale the purchaser shall execute a notarized statement of his or her intent to license the vehicle in his or her state of residence within 10 days from the date of purchase and:

1. Pay Florida sales tax to the dealer making the sale in an amount equivalent to the sales tax in the purchaser's state of residence;
2. Furnish the dealer making the sale with a signed copy of the notarized statement which the dealer shall retain in his records; and,
3. Submit the notarized statement to the appropriate sales tax collection agency in his state of residence.
4. The Department prescribes Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State, incorporated by reference in Rule 12A-1.097, F.A.C., to be completed by the purchaser and furnished to the selling dealer or appropriate sales tax collection agency.

(b) Each motor vehicle dealer who is required by Section 320.08(12), F.S., to purchase one or more dealer license plates shall

pay an annual use tax of \$27 for each dealer license plate purchased and such tax shall be for the year for which the dealer license plate was purchased. Dealers' tags authorized pursuant to Section 320.13, F.S., shall be valid for use on motor vehicles owned by dealers to whom issued while the motor vehicle is being held in inventory for sale in the regular course of business, or while the motor vehicle is being operated in connection with such dealers' business and shall not be valid for use for hire.

(c) When a motor vehicle dealer assigns a motor vehicle to a person other than an employee or officer (such as relatives or business associates), it will be presumed that the motor vehicle is not in inventory for sale in the regular course of business or for operation in connection with the dealer's business. Tax must be paid, measured by the purchase price of the motor vehicle.

(d) If a motor vehicle dealer purchases under a resale certificate a new motor vehicle of a type which he is not franchised to sell, or does not ordinarily sell as a new vehicle, and uses the vehicle for any purpose other than, or in addition to, solely demonstration or display, it shall be presumed that he is not holding the vehicle in inventory for sale in the regular course of business or for operation in connection with his business, and tax shall be due measured by the cost price of the vehicle.

(e) Except for motor vehicles held exclusively for leasing, motor vehicles which are capitalized in a fixed asset account and depreciated for income tax purposes are not held for resale. Tax must be paid measured by the cost price of such motor vehicles.

(f) If a motor vehicle manufacturer, distributor, dealer, or lessor registers a motor vehicle purchased for resale in a name other than that of the manufacturer, distributor, dealer, or lessor, and retains title to the motor vehicle, the vehicle is not being held for sale in the regular course of business, and the manufacturer, distributor, dealer, or lessor shall pay tax measured on the cost price of the motor vehicle.

(g) An automobile which is exclusively used by the dealer for loan to a high school in its driver education and safety program may be titled in the dealer's name without payment of tax, provided that the dealer furnishes the Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, with an affidavit to that effect when applying for title.

(h) The sale of a motor vehicle by a rental car agency to a customer is taxable. The rental car agency shall collect and remit the tax to the Department of Revenue and shall furnish the customer with a receipt therefore which he can attach to his application for certificate of title as proof that tax has been paid.

(i) A motor vehicle dealer or a licensed export-import dealer registered under the sales and use tax law must obtain and provide an ocean bill of lading from a regularly operated transportation company engaged in foreign commerce to prove export and exemption from Florida tax, except as otherwise provided in subsection (6) above. Claimed shipment abroad in privately operated vessels or vehicles where no bill of lading is issued as proof of export of specific items cannot be allowed without tax. Such claimed shipment is construed to be acceptance of delivery in Florida by purchaser and is taxable.

(j)1. The occasional or isolated sale of a motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable based upon the total selling price of the motor vehicle.

2. If any party to the occasional or isolated sale of any motorcycle, moped, motorized bicycle, automobile for private use, truck with a net weight of 5,000 pounds or less, antique truck, travel trailer, camping trailer, or motor home reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed by Maclean Hunter Market Reporters, Inc. (hereby incorporated by reference), the tax shall be computed by the Executive Director or the Executive Director's designee in the responsible program on the average loan price for the specified model and year of such vehicle as listed in the most recent price list published by Maclean Hunter Market Reporters, Inc. This is applicable unless the parties to the occasional or isolated sale have provided to the tax collector an affidavit (Form DR-99A), signed by each party, or other substantial proof as may be required by the Executive Director or the Executive Director's designee in the responsible program, stating the actual sales price of such vehicle. Form DR-99A, Affidavit for Private or Casual Sale of a Motor Vehicle, is incorporated by reference in Rule 12A-1.097, F.A.C.

3. The value of optional equipment, high mileage, low mileage, or reconditioning are excluded for purposes of determining the average loan price of any used vehicle as listed by Maclean Hunter Market Reporters, Inc.

4. The compiled price list is updated at intervals dependent upon the class of vehicle by Maclean Hunter Market Reporters, Inc., and the most recent version is applicable. For information regarding the compiled price list, contact the Florida Department of Revenue, Compliance Determination-Campaigns, at (850)617-8594 and, for the hearing or speech impaired, TDD at 1(800)367-8331. A written request may be mailed to the following address:

Florida Department of Revenue  
General Tax Administration MS 1-2800  
P.O. Box 6417

Tallahassee, Florida 32314-6417.

(k) Well drilling, excavation, construction, spraying, and like extra equipment and devices mounted on motor vehicles which are not necessary for the operation of the vehicle as a motor vehicle upon the highway may be considered separate and apart from the vehicle for the purpose of determining tax application. When such a vehicle is sold, the total sales price is taxable unless the vehicle was a used vehicle and was sold by a person who is not a dealer in such vehicles. When a person who is not a dealer in such vehicles sells a used vehicle of this type, the tax must be paid by the purchaser upon the total sales price when application is made for transfer of title to the vehicle unless the value of the extra equipment which is not necessary for the operation of the vehicle on the highways is separately stated. When the value of such extra equipment is separately stated on the customer's billing and appears to be reasonable, only the value of the vehicle is subject to the tax.

(l) The occasional or isolated sale of trailers or other vehicles including, but not limited to, mopeds of a class or type required to be registered, licensed, tagged, titled, or documented in this state or by the United States Government is taxable.

(m) The act of registering any motor vehicle in this state constitutes constructive importation for use of such motor vehicle in this state and shall subject such motor vehicle to Florida use tax.

(9) Boats.

(a) Effective September 1, 1992:

1. No sales or use tax is due on the sale in this state of a new or used boat which meets all the following conditions:

a. The boat is of a class or type which would be required to be registered, licensed, titled, or documented in this state or by the United States Government; and,

b. The sale is by or through a registered dealer who is the holder of a valid dealer's certificate of registration issued by the Florida Department of Revenue. Where there is a listing broker for the seller and a broker for the purchaser, the purchaser's broker shall be considered the selling dealer for purposes of this paragraph; and,

c. The purchaser removes the boat from this state within 10 days after the date of purchase or, if the boat is repaired or altered, within 20 days after completion of the repairs or alterations; and,

d. The purchaser at the time of taking delivery of the boat is not a resident of the State of Florida and does not make his permanent place of abode in Florida; and,

e. The purchaser, whether a natural person or a corporation, limited liability company, partnership, joint adventure, association, syndicate, business trust, trust, estate, or other form of artificial entity, is not engaged in Florida in any employment, trade, business, or profession in which the boat will be used; and,

f. The purchaser, if a corporation, has no officer or director who is a resident of, or makes his or her permanent place of abode in, Florida; and,

g. The purchaser, if an artificial entity other than a corporation, has no individual vested with authority to participate in the management, direction, or control of the affairs of the entity who is a resident of, or makes his or her permanent place of abode in, Florida. Artificial entities other than corporations include, but are not limited to partnerships, joint adventures, associations, syndicates, limited liability companies, business trusts, trusts, and estates; and,

h. The purchaser within 30 days of the boat's departure from Florida furnishes the Department proof of timely removal of the boat from Florida. The documentary proof of removal may be in the form of invoices for fuel, dockage charges, or repairs issued by out-of-state vendors or suppliers, or other documentary evidence which specifically identify the boat and evidence its removal within the time period specified in sub-subparagraph c.; and,

i. The purchaser within 90 days of the date of purchase provides the Department with written proof that the boat was licensed, registered, titled, or documented outside this state; and,

j. The selling dealer obtains from the purchaser an affidavit in which the purchaser attests that he has read the law providing for the exemption, that he will remove the boat from this state within the time limit set in this paragraph, that no use will be made of the boat in this state other than to move the boat expeditiously out of Florida from the point of delivery or to a registered repair facility if repairs are to immediately follow the purchase of the boat, and that the boat will be removed from this state within 20 days (excluding tolled days) after completion of the repairs or alterations; and,

k. The seller provides to the Department within 30 days of the date of purchase a copy of the sales invoice, bill of sale and/or closing statement, and the original removal affidavit signed by the purchaser; and,

l. The seller maintains the sales invoice, bill of sale and/or closing statement, and a copy of the removal affidavit signed by the purchaser as part of his records for a period of at least 5 years or until tax imposed by Chapter 212, F.S., may no longer be

determined and assessed under Section 95.091(3), F.S.

2. The following is a suggested format for an affidavit to be completed by the purchaser and furnished to the selling dealer:

**AFFIDAVIT FOR EXEMPTION OF BOAT SOLD FOR REMOVAL  
FROM THE STATE OF FLORIDA BY A NONRESIDENT PURCHASER**

I, the undersigned, hereby affirm that:

- I have read the Florida Department of Revenue subsection 12A-1.007(9), F.A.C., and Section 212.05, F.S.; and,
- I am not a resident of the State of Florida and do not make my permanent place of abode in Florida at the time of taking delivery of the boat designated below; and,
- I am not engaged in Florida in any employment, trade, business, or profession in which the designated boat will be used in Florida; and,
- I represent a corporation which has no officer or director who is a resident of, or makes his or her permanent place of abode in, Florida; and,
- I represent an artificial entity other than a corporation which has no individual vested with authority to participate in the management, direction, or control of the affairs of the entity who is a resident of, or makes his or her permanent place of abode in, Florida.

I hereby agree to provide the Florida Department of Revenue within 90 days of the date of purchase written proof that the boat herein identified and described was licensed, registered, or documented outside Florida.

I hereby agree to provide the Florida Department of Revenue within 30 days of the boat departing Florida invoices for fuel, dockage charges, or repairs issued by out-of-state vendors or suppliers, or other documentary evidence which specifically identify the boat herein described, including the hull I.D. number.

I claim exemption under Section 212.05(1)(a)2., F.S., from Florida sales and use tax on the purchase of the boat designated below for the following reason:

- ( ) Boat will be removed by me or by my designated agent from the State of Florida within 10 days of the date of purchase.
- ( ) Boat is to be repaired or altered and will be removed from the State of Florida by me or by my designated agent within 20 days (excluding tolled days) after completion of the repairs or alterations consistent with Section 212.05, F.S.

Name of Purchaser \_\_\_\_\_  
Purchaser's Permanent Address \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State/Country)  
Purchaser's Telephone Number ( ) \_\_\_\_\_  
Name of Selling Dealer \_\_\_\_\_  
Address of Selling Dealer \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)  
Selling Dealer's Florida Sales and Use Tax Registration Number \_\_\_\_  
Selling Dealer's Telephone Number ( ) \_\_\_\_\_  
Date of Sale \_\_\_\_\_ (Month) \_\_\_\_\_ (Day) \_\_\_\_\_ (Year)

**DESCRIPTION OF BOAT**

Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_ Hull No. \_\_\_\_\_ ( ) New ( ) Used  
Name of Vessel \_\_\_\_\_  
State/Country Registration and/or Coast Guard Documentation Number \_\_\_\_\_  
Sales Price \_\_\_\_\_ Trade-In Allowance \_\_\_\_\_ Net Amount Paid \_\_\_\_\_

Under penalties of perjury, I declare that I have read the foregoing affidavit, and the facts stated are true to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of Purchaser)

Original to be submitted to the Florida Department of Revenue, General Tax Administration MS 1-2800, P.O. Box 6417, Tallahassee, Florida 32314-6417.

1st copy to be retained by the dealer and made part of the dealer's records.

2nd copy: Purchaser's copy.

3.a. In the event the purchaser fails to provide to the Department documentation required under sub-subparagraphs h. and i. of subparagraph 1., the Department shall proceed against the purchaser for payment of the tax, penalty, and interest.



b. In the event the seller fails to maintain the records required under sub-subparagraphs j. and l. of subparagraph 1., the Department shall proceed against the seller for payment of the tax, penalty, and interest.

4. Notwithstanding the provisions of Section 212.05(1)(a)2., F.S., and this paragraph, the owner of a boat purchased in Florida may permit the boat to be returned to this state for repairs within 6 months from the date of departure without the boat being in violation of the law and without incurring liability for payment of tax or penalty on the purchase price of the boat so long as he removes the boat from this state within 20 days of the completion of the repairs and can prove that he did so by invoices for fuel or dockage charges issued by out-of-state vendors or suppliers, which specifically identify the boat and which are dated within 20 days after completion of the repairs.

5. For purposes of this paragraph, any individual who maintains a place of abode in Florida is a Florida resident. A place of abode is a dwelling place maintained by a person, or by another for him, whether or not owned by such person, on other than a temporary or transient basis. The dwelling may be a house, apartment, mobile home, motor home, boat, a room, including a room in a hotel, motel or boarding house, or any other structure. Any individual qualifying for homestead exemption or voting rights in Florida is considered a Florida resident. Other factors which may establish Florida residency or domicile, but which are not alone conclusive, are ownership of a Florida residence, having Florida licenses (driver's license and/or other forms of licenses), or declaration of Florida residency on Federal or state tax returns.

6. Documents, as required in this paragraph to be provided to the Department, shall be mailed to the following address:  
Florida Department of Revenue  
General Tax Administration MS 1-2800  
P.O. Box 6417  
Tallahassee, Florida 32314-6417.

(b)1.a. A boat, purchased by its current owner outside this state, using the waters of this state and required to be registered and numbered in this state within 20 days after purchase by the owner, pursuant to Section 327.10, F.S., is subject to tax on the sales price of the boat within 20 days after purchase by the owner.

b. A boat, purchased by its current owner outside this state, operating on the waters of this state in excess of 90 days, which is solely documented under operative federal law, or which is registered, licensed, or titled pursuant to a federally approved numbering system of another state as described in Section 327.16, F.S., is subject to tax on the sales price of the boat at the time the requirements of Section 327.16, F.S., have been met.

2. Effective September 1, 1992, any boat which remains in this state for more than an aggregate of 183 days in any 1-year period shall be presumed to be commingled with the general mass of property of this state, and tax shall be due on the sales price of the boat, except under the following circumstances:

a. A boat used in other states or territories of the United States, or the District of Columbia for six months or longer under conditions which lawfully give rise to the taxing jurisdiction of another state, territory, or District of Columbia and any lawfully imposed tax was paid to such state, territory, or District of Columbia before being imported into Florida; or

b. A boat which is physically in the care, custody, and control of a facility registered with the Department for the purpose of repairs, alterations, refitting, or modifications, and such activities have been properly documented in accordance with Rule 12A-1.0071, F.A.C.

3. Refer to subsection (2) of this rule for purchases made outside Florida and to subsection (3) of this rule for tax credit for tax lawfully imposed and paid to another state, territory of the United States, or District of Columbia.

(c) The occasional or isolated sale of a boat of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable based upon the total selling price of the complete boat rig, which includes the boat and its motor, trailer, and accessories, if any. However, the tax applies only to the boat and trailer, if the seller separately describes each of the other components and separately itemizes the sales price of each component on his sales invoice and the sales invoice is sworn to before a notary. Inboard machinery used to propel or power a boat and accessories attached to a boat or trailer are taxable. Sales of components of a boat rig by a person registered or required to be registered as a dealer are taxable.

(d) The sale of a boat by any "person," as defined in Section 212.02, F.S., who does not hold a valid dealer's certificate of registration issued by the Florida Department of Revenue is taxable, and the Department may proceed against the purchaser for the collection of the tax.

(e)1. The presumption that tangible personal property used in another state, territory of the United States, or the District of Columbia for six months or longer before being imported into Florida was not purchased for use in Florida, does not apply to any

boat imported into Florida for which a saltwater fishing license fee is required. Any boat imported into Florida for which a saltwater fishing license fee is required to be paid pursuant to Section 372.57(7), F.S., for either the boat or the captain, for the purpose of taking, attempting to take, or possessing any marine fish for noncommercial purposes, such as sport or pleasure fishing, is subject to use tax, due and payable as follows:

- a. A boat that is first licensed within 1 year after purchase is subject to use tax on the full amount of the purchase price;
- b. A boat that is first licensed in the second year after purchase is subject to use tax on 90 percent of the purchase price;
- c. A boat that is first licensed in the third year after purchase is subject to use tax on 80 percent of the purchase price;
- d. A boat that is first licensed in the fourth year after purchase is subject to use tax on 70 percent of the purchase price;
- e. A boat that is first licensed in the fifth year after purchase is subject to use tax on 60 percent of the purchase price;
- f. A boat that is first licensed in the sixth year after purchase is subject to use tax on 50 percent of the purchase price;
- g. If the purchaser fails to provide the purchaser's invoice for the boat, tax shall be computed on the fair market value of the boat at the time the boat is imported into Florida.

2. The purchaser is required to present proof of payment of the tax prior to the issuance of the first saltwater fishing license issued under the provisions of Section 372.57(7), F.S.

3. When an individual, possessing a license under the provisions of Section 372.57, F.S., is hired to captain a boat, use tax shall be due as provided in this paragraph when the boat is used for the purpose of taking, attempting to take, or possessing any saltwater fish for noncommercial purposes, such as sport or pleasure fishing.

(10) Aircraft.

(a) The tax applies to all sales of aircraft in this state unless the selling dealer is the holder of a valid dealer's Certificate of Registration which authorizes the dealer to sell aircraft and the sale is made under the conditions specified in paragraph (b), (c), or (d). Where there is a listing broker for the seller and a broker for the purchaser, the purchaser's broker shall be considered the selling dealer for purposes of this subsection.

(b)1. Effective September 1, 1992, tax applies to all sales of aircraft in this state unless all the following conditions are met:

- a. The selling dealer is the holder of a valid dealer's Certificate of Registration which authorizes the dealer to sell aircraft.
- b. The purchaser at the time of taking delivery of the aircraft is a nonresident of the State of Florida and does not make his permanent place of abode in Florida; and,

- c. The purchaser, whether a natural person or a corporation, limited liability company, partnership, joint adventure, association, syndicate, business trust, trust, estate, or other form of artificial entity, is not engaged in Florida in any employment, trade, business, or profession in which the aircraft will be used; and,

- d. The purchaser, if a corporation, has no officer or director who is a resident of, or makes his or her permanent place of abode in, Florida; and,

- e. The purchaser, if an artificial entity other than a corporation, has no individual vested with authority to participate in the management, direction, or control of the affairs of the entity who is a resident of, or makes his or her permanent place of abode in, Florida. Artificial entities other than corporations include, but are not limited to partnerships, joint adventures, associations, syndicates, limited liability companies, business trusts, trusts, and estates; and,

- f. The purchaser removes the aircraft from Florida within 10 days following the date of purchase or, if the aircraft is immediately placed in a registered repair facility, within 20 days following the completion of the repairs or alterations; and,

- g. The purchaser within 30 days of the aircraft's departure from Florida furnishes the Department proof of timely removal of the aircraft from Florida. The documentary proof of removal may be in the form of invoices for fuel, tie-down charges, or hangar charges issued by out-of-state vendors or suppliers, or other documentary evidence which specifically identify the aircraft, including the FAA registration number, and constitute evidence that the aircraft was removed from Florida within the time period specified in subparagraph 6.; and,

- h. The purchaser, within 90 days of the date of purchase, provides the Department with written proof that the aircraft was licensed, registered, or documented outside this state; and,

- i. The selling dealer obtains from the purchaser an affidavit in which the purchaser attests that he has read the law providing for the exemption, that he will remove the aircraft from this state within the time limit set in this paragraph, that no use will be made of the aircraft in this state other than to move the aircraft expeditiously out of Florida from the point of delivery or to a registered repair facility if repairs are to immediately follow the purchase of the aircraft, and that the aircraft will be removed from this state within 20 days (excluding tolled days) after completion of the repairs or alterations; and,

j. The seller provides to the Department within 30 days of the date of purchase a copy of the sales invoice, bill of sale and/or closing statement, and the original removal affidavit signed by the purchaser; and,

k. The seller maintains the sales invoice, bill of sale and/or closing statement, and a copy of the removal affidavit signed by the purchaser as part of his records for a period of at least 5 years or until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

2. The following is a suggested format for an affidavit to be completed by the purchaser and furnished to the selling dealer:

**AFFIDAVIT FOR EXEMPTION OF AIRCRAFT SOLD FOR REMOVAL FROM  
THE STATE OF FLORIDA BY THE NONRESIDENT PURCHASER**

**AFFIDAVIT**

I, the undersigned, hereby affirm that:

- I have read the Florida Department of Revenue subsection 12A-1.007(10), F.A.C., and Section 212.05, F.S.; and,
- I am not a resident of the State of Florida and do not make my permanent place of abode in Florida at the time of taking delivery of the aircraft designated below; and,
- I am not engaged in Florida in any employment, trade, business, or profession in which the designated aircraft will be used in Florida; and,
- I represent a corporation which has no officer or director who is a resident of, or makes his or her permanent place of abode in, Florida; and,
- I represent an artificial entity other than a corporation which has no individual vested with authority to participate in the management, direction, or control of the affairs of the entity who is a resident of, or makes his or her permanent place of abode in, Florida.

I hereby agree to provide the Florida Department of Revenue within 90 days of the date of purchase written proof that the aircraft herein identified and described was licensed, registered, or documented outside Florida.

I hereby agree to provide the Florida Department of Revenue within 30 days of the aircraft departing Florida invoices for fuel, tie-down charges, or hangar charges issued by out-of-state vendors or suppliers, or other documentary evidence which specifically identify the aircraft herein described, including the FAA registration number.

I claim exemption under Section 212.05(1)(a)2., F.S., from Florida sales and use tax on the purchase of the aircraft designated below for the following reason:

- ( ) Aircraft will be removed by me or by my designated agent from the State of Florida within 10 days of the date of purchase.
- ( ) Aircraft is to be repaired or altered and will be removed from the State of Florida by me or by my designated agent within 20 days after completion of the repairs or alterations consistent with Section 212.05, F.S.

Name of Purchaser \_\_\_\_\_

Purchaser's Permanent Address \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State/Country)

Purchaser's Telephone Number ( ) \_\_\_\_\_

Name of Selling Dealer \_\_\_\_\_

Address of Selling Dealer \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

Selling Dealer's Florida Sales and Use Tax Registration Number \_\_\_\_

Selling Dealer's Telephone No. ( ) \_\_\_\_\_

Date of Sale \_\_\_\_\_ (Month) \_\_\_\_\_ (Day) \_\_\_\_\_ (Year)

**DESCRIPTION OF AIRCRAFT**

Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_ Serial No. \_\_\_\_\_ ( ) New ( ) Used

Tail Number(s) \_\_\_\_\_

State/Country Registration and/or U.S. FAA Registration Number \_\_\_\_\_

Sales Price \_\_\_\_\_ Trade-In Allowance \_\_\_\_\_ Net Amount Paid \_\_\_\_\_

Under penalties of perjury, I declare that I have read the foregoing affidavit, and the facts stated are true to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of Purchaser)

Original to be submitted to the Florida Department of Revenue, General Tax Administration MS 1-2800, P.O. Box 6417, Tallahassee, Florida 32314-6417.

1st copy to be retained by the dealer and made part of the dealer's records.

2nd copy: Purchaser's copy.

3.a. In the event the purchaser fails to provide to the Department documentation required under sub-subparagraphs g. and h., the Department shall proceed against the purchaser for payment of the tax, penalty, and interest.

b. In the event the seller fails to maintain the records required under sub-subparagraphs i. and k., the Department shall proceed against the seller for payment of the tax, penalty, and interest.

4. Notwithstanding the provisions of Section 212.05(1)(a)2., F.S., and this paragraph, the owner of an aircraft purchased in Florida may permit the aircraft to be returned to this state for repairs within 6 months from the date of departure without the aircraft being in violation of the law and without incurring liability for payment of tax or penalty on the purchase price of the aircraft so long as he removes the aircraft from this state within 20 days of the completion of the repairs and can prove that he did so by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers, which specifically identify the aircraft and which are dated within 20 days after completion of the repairs.

5. For purposes of this paragraph, any individual who maintains a place of abode in Florida is a Florida resident. A place of abode is a dwelling place maintained by a person, or by another for him, whether or not owned by such person, on other than a temporary or transient basis. The dwelling may be a house, apartment, mobile home, motor home, boat, a room, including a room in a hotel, motel or boarding house, or any other structure. Any individual qualifying for homestead exemption or voting rights in Florida is considered a Florida resident. Other factors which may establish Florida residency or domicile, but which are not alone conclusive, are ownership of a Florida residence, having Florida licenses (driver's license and/or other forms of licenses), or declaration of Florida residency on Federal or state tax returns.

6. Documents, as required in this paragraph to be provided to the Department, shall be mailed to the following address:

Florida Department of Revenue

General Tax Administration MS 1-2800

P.O. Box 6417

Tallahassee, Florida 32314-6417

(c)1. When the sale of flyable aircraft is made by a manufacturer of flyable aircraft who manufactures the aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, the tax imposed on the sale shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled. However, such tax shall not exceed 6 percent of the sales price of such aircraft and no tax shall be imposed on the sale of the aircraft if the state in which the aircraft will be domiciled does not allow credit against its sales or use tax for sales or use tax paid in Florida. Furthermore, the tax shall not be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales or use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

2. The partial exemption provided in this paragraph applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country. At the time of sale the purchaser shall execute a notarized statement attesting he or she is not a resident of this state and stating where the aircraft will be domiciled.

3. Notwithstanding the above provisions of this paragraph, the owner of an aircraft may permit the aircraft to be returned to this state for repairs within 6 months from the date of sale without incurring liability for payment of tax or penalty on the purchase of the aircraft so long as the aircraft is removed from this state within 20 days of the completion of the repairs.

4. Notwithstanding the provisions of this paragraph, the purchaser of an aircraft may purchase such aircraft pursuant to the provisions of paragraph (b), above, in which case the provisions of paragraph (b) shall prevail.

(d)1. Aircraft being exported under their own power to a destination outside the continental limits of the United States are subject to tax, unless the purchaser furnishes the dealer a duly signed and validated United States Customs declaration, showing the departure of the aircraft from the continental United States and the canceled United States registry of said aircraft. The burden of obtaining the evidential matter to establish the exemption rests with the selling dealer, who must retain the proper documentation to support the exemption.

2. Equipment and parts installed on aircraft of foreign registry are subject to tax, unless the owner, owner's agent, or operator of

the aircraft furnishes the dealer with an exemption certificate stating the aircraft was brought to the United States for the purpose of having equipment and parts installed and that upon completion of such installation, the aircraft will depart under its own power from the continental United States. The burden of obtaining this evidential matter rests with the dealer installing the equipment and parts, who must retain the proper documentation to support the exemption.

3. The following is a suggested exemption certificate to be used by a Florida dealer when installing parts and equipment on any aircraft of foreign registry which aircraft will depart under its own power from the continental United States upon completion of such installation.

**EXEMPTION CERTIFICATE FOR  
PARTS AND EQUIPMENT INSTALLED ON AIRCRAFT OF FOREIGN REGISTRY**

\_\_\_\_\_ (date)  
To: \_\_\_\_\_ (dealer)  
Make: \_\_\_\_\_  
Model: \_\_\_\_\_  
Serial Number: \_\_\_\_\_  
Registration Number: \_\_\_\_\_  
Country of Registration \_\_\_\_\_

I, \_\_\_\_\_, as owner, owner’s agent, or operator of the above named aircraft certify said aircraft has been brought to the United States for the purpose of having repairs or maintenance performed and that upon completion of such repairs or maintenance, the aircraft will depart under its own power from the continental United States.

Owner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Accepted by: \_\_\_\_\_ (Name of Dealer) for repair order(s)

No.(s) \_\_\_\_\_ by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under penalties of perjury, I declare that I have read the foregoing certificate, and the facts stated are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature and Title of Owner, Owner’s Agent, or Operator of the above named aircraft

Note: This exemption certificate is valid for one entry/departure only.

(e) The sale of an aircraft by any “person,” as defined in Section 212.02, F.S., who does not hold a valid dealer’s certificate of registration which is issued by the Florida Department of Revenue and authorizes such person to sell aircraft is not exempt from the tax.

(f)1. All charges for aircraft modification services, including parts, equipment, and labor furnished or installed in connection therewith, performed under authority of a supplemental type certificate issued by the Federal Aviation Administration, as provided in 14 C.F.R. Part 21, Subpart E – Supplemental Type Certificates, are exempt.

a. The aircraft modifications subject to this exemption are those which introduce a major change in type of design not great enough to require a new application for a type certificate, as provided by Aeronautics and Space, 14 C.F.R. §21.113 (March 5, 2018), effective January 1, 2020, and hereby incorporated by reference (<http://www.flrules.org/Gateway/reference.asp?No=Ref-13419>).

b. The term “supplemental type certificate” is that certificate described in 14 C.F.R., §21.113 (2018).

2. To document this exemption, the purchaser of the qualifying modification and the business that performed the modification must maintain, in its books and records, copies of the FAA supplemental type certificate and FAA Form 337 containing a

description of the major change, signed by a holder of an FAA inspection authorization.

(g)1. Registered aircraft dealers who purchase aircraft exclusively for resale are exempt from the payment of tax on the purchase price at the time of purchase but shall pay a use tax computed on 1 percent of the value of the aircraft each calendar month that the aircraft is used by the dealer.

2. The payment of such use tax shall commence in the month during which the aircraft is first used for any purpose for which income is received by the dealer for its use, including charter, rental, flight training, and demonstration where a charge is made.

3. A dealer may pay the sales tax on the purchase of the aircraft in lieu of the monthly use tax.

4. The value of the aircraft shall be determined by adding to acquisition cost the cost of reconditioning, if any, and shall generally be the value reflected upon the books of the dealer in accordance with generally accepted accounting principles.

5.a. Routine maintenance and repairs, including the replacement of parts, which do not materially enhance the value of the aircraft, shall not constitute reconditioning of the aircraft for the purpose of computing the use tax each month. Where such routine repairs and maintenance are performed by the dealer or his employees, tax shall be paid on the parts used in such routine repairs and maintenance. However, where such routine repairs and maintenance are performed by any person other than the dealer or his employees, the total charge for the repairs and maintenance, including the charge for parts or labor, is taxable.

b. The determination whether an expenditure constitutes maintenance and repairs on which a tax is to be paid but which does not cause a change in the value of the aircraft for use tax purposes, or whether an expense constitutes a reconditioning of the aircraft on which a tax is not to be paid but which will cause a change in the basis upon which the use tax is computed, shall be made in accordance with generally accepted accounting principles. The guidelines of the Internal Revenue Service as to whether the expense is immediately deductible, or whether the expense is a capital investment which may be depreciated, shall be used in making such determination.

(h) Notwithstanding the payment by the dealer of tax computed on 1 percent of the value of any aircraft, if the aircraft is leased or rented, the dealer shall collect from the customer and remit to the State the tax which is due on the lease or rental of the aircraft, and such payments shall not diminish or offset any use tax due by the dealer.

(i) The occasional or isolated sale of an aircraft of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is taxable. See Rule 12A-1.071, F.A.C., for the application of tax to the rental of aircraft, charges made by an air taxi (charter), charges for flight instruction, and charges for solo flights by students.

(j) Labor charges for the repair and maintenance of aircraft with a maximum certified take-off weight that exceeds 2,000 pounds, including rotary wing aircraft, and charges for replacement engines, parts, or equipment used and installed on such aircraft being repaired or maintained in Florida are exempt. Dealers must document tax-exempt repairs or maintenance by including the maximum certified take-off weight of the aircraft on the bill of sale, invoice, or other tangible evidence of sale.

(11) Mobile Homes.

(a) For purposes of this subsection the term "mobile home" means and includes a structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(b)1. The sale or use of a mobile home which is not classified as real property is considered a sale or use of tangible personal property and is taxable. A mobile home is tangible personal property if it is located in a mobile home park or other place where the land on which the mobile home is located is not owned by the mobile home owner.

2. If a mobile home is classified as tangible personal property, the sale, including the occasional or isolated sale, the use, consumption, or storage for use in this state is taxable on the full sales price.

3. The sale of a mobile home independent of the realty to which it is affixed at the time of sale constitutes a legal severance of the mobile home from the realty and the sale of the mobile home is taxable as the sale of tangible personal property even though the mobile home may have an "RP" decal affixed thereto at the time of sale.

4. The sales price of a mobile home which is considered tangible personal property is the total sales price of the mobile home which shall include, if applicable, the sales price of any tangible personal property included within or which becomes a part of, or is attached to the mobile home at the time of the sale of the mobile home. Such tangible personal property may include but is not limited to: interior equipment and furnishings; skylights; carport roof; or storage structures.

(c) A mobile home park developer (owner) who is also in the business of selling mobile homes and who enters into an agreement with a purchaser for the sale of the mobile home, the placing of the mobile home on the developer's mobile home lot, and for making certain improvements to the developer's mobile home lot as requested by the purchaser, shall charge or pay tax as

follows:

1. If the sale of the mobile home, the placing of the mobile home on the developer's lot, and making improvements to the mobile home lot are for a single lump sum amount, sales tax is due on the total amount. The sales tax is to be separately stated as Florida sales tax in the agreement and on the invoice and is to be collected by the developer from the purchaser. In this instance, the developer may extend his resale certificate for the purchase of the mobile home and for the items used in making improvements to the mobile home lot. Examples of these improvements include mobile home skirting or blocking, screen porches or other attached rooms, central heating and air conditioning units, shrubbery and other plants, lawn grass, and driveways.

2. If the sale of the mobile home, the placing of the mobile home on the developer's lot, and the making of improvements to the mobile home lot are separately stated in the agreement and on the invoice, sales tax is due on the selling price of the mobile home and the placing of the mobile home on the developer's lot. If the agreement provides that the purchaser has an option of having a third party place the mobile home on the developer's lot, only the sale of the mobile home is subject to tax. The sales tax is to be separately stated as Florida sales tax in the agreement and on the invoice and is to be collected by the developer from the purchaser. Under this subparagraph, the developer is liable for the tax on its purchases of tangible personal property used in making the improvements to the realty, unless the requirements of paragraph 12A-1.051(3)(d), F.A.C., are met. If the developer contracts with a third party to make improvements to realty, the third party is liable for the tax on the purchase of tangible personal property used in making improvements to the real property.

(d)1. The sale of a mobile home in conjunction with the sale of land at a time when the mobile home is not real property, either by its not bearing an "RP" decal or at the time of the sale the conditions of paragraph (g) not being satisfied, is a sale of tangible personal property and is taxable. The sales price of the mobile home at such sale, if not separately stated, shall be based upon the larger of:

- a. The fair market value; or
- b. The balance of any outstanding liens on the mobile home.

2. When a person owns real property upon which he permanently affixes a mobile home, such person may request the county property appraiser to assess it as realty. Upon assessment as realty by the property appraiser, the owner may obtain an "RP" decal from the county tax collector. Any repairs, alterations, or improvements of any mobile home that bears an "RP" decal will be treated as the repair, alteration, or improvement to real property. Repairs, alterations, or improvements to mobile homes which do not bear an "RP" decal constitute repairs, alterations, or improvements to tangible personal property.

(e)1. The sale of land and a mobile home which is classified as real property as a packaged deal is not taxable. The person converting the mobile home into realty is deemed a contractor engaged in improving realty. A mobile home is presumed to be real property when such mobile home bears a valid "RP" decal. A mobile home which does not bear a valid "RP" decal is classified as real property only if:

a. The mobile home is permanently affixed to land owned by the owner of the mobile home. A mobile home is permanently affixed to land for sales tax purposes if the mobile home sits on a foundation with its wheels either removed or off the ground and if the mobile home is connected to utility services; and,

b. Prior to the sale, and not simultaneously thereto, the owner of the mobile home and of the realty to which it is affixed files with the county property appraiser a declaration requesting the mobile home be assessed as real property.

2. The provisions of Rule 12A-1.051, F.A.C. (Sales to or by Contractors Who Repair, Alter, Improve, and Construct Real Property), shall not be construed to apply to any instance where a contractor is considered as improving realty by incorporating a mobile home therein nor to any sale of a mobile home to the extent that Rule 12A-1.051, F.A.C., refers to the sale of a mobile home as a sale of tangible personal property.

(f)1. The rental of a mobile home as tangible personal property is taxable. A mobile home purchased tax exempt for exclusive rental as tangible personal property is subject to use tax if the mobile home ceases to be used for the purpose for which it was purchased. The owner shall accrue and pay to the Department of Revenue use tax computed on the fair market value of the mobile home at the time it is used for any purpose other than exclusively for rental as tangible personal property.

2. Notwithstanding the fact that a mobile home is subject to a license tax under the Motor Vehicle License Law, it is nevertheless a "rooming house" within the meaning of Chapter 212, F.S., when it has a fixed location and is used or held out to the public to be a place where living quarters, sleeping, or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants. The purchase of a mobile home to be used as living accommodations within the purview of Section 212.03, F.S., is taxable at the time of purchase even though the mobile home may be untagged or have affixed thereto a motor vehicle license tag or

an “RP” decal.

(g)1. Any prefabricated or modular housing unit or portion thereof which is not manufactured upon a chassis or undercarriage as an integral part thereof is not a mobile home. Any such unit not affixed to realty is subject to the tax as tangible personal property when sold or repaired. When affixed to realty, the sale, repair, alteration, or improvement of any such unit is governed by Rule 12A-1.051, F.A.C.

2. In the instances of a modular home or prefabricated housing unit or manufactured building, the term “affixed to realty” shall mean a condition whereby the unit or building is either served by utility service other than electricity or is in place on land or on a foundation, or is on, attached to, or incorporated in another structure by any means other than by its own weight.

3. The sale, use, or rental of a modular home, prefabricated building, or manufactured building before such unit is affixed to realty is taxable as tangible personal property.

4.a. The terms “modular home” or “prefabricated housing unit” mean and include structures which are designed to be used as dwellings when connected to the required utilities including the plumbing, heating, air-conditioning, and electrical systems contained therein, but which are not built on an integral chassis and which are not designed to be transported on their own wheeled assembly.

b. The term “manufactured building” means and includes a closed structure, building assembly, or system of assemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection, with or without other specified components, as a finished building or as part of a finished building, which shall include, but not be limited to commercial, institutional, storage, and industrial structures.

(h) The occasional or isolated sale of a mobile home, when such mobile home is tangible personal property within the meaning of this subsection, is taxable. The internal plumbing, heating, air conditioning, electrical systems, and attached fixtures, such as built-in ovens, built-in dishwashers, hot water heaters, and built-in furniture, are considered a part of the mobile home and are taxable when sold with the mobile home. However, tax does not apply to the occasional or isolated sale of carports, utility sheds, furniture, freezers, refrigerators, drapes, air conditioner compressor/condenser units located outside the mobile home, or other appurtenances which are sold in conjunction with the mobile home, provided the selling party to the occasional or isolated sale separately describes each appurtenance and separately itemizes the sales price of each appurtenance on his sales invoice and the sales invoice is sworn to before a notary. If the appurtenances are not separately described and the sales price of each appurtenance is not separately itemized and the sales invoice is not notarized, the total selling price is taxable. Sales of appurtenances by a person registered or required to be registered as a dealer are taxable.

(12) Insurance.

(a) The transfer of title to any aircraft, boat, mobile home, or motor vehicle from the insured to an insurance company in conjunction with the settlement of a claim is exempt.

(b) The purchase of parts by an insurance company to repair a vehicle for sale is exempt.

(c) The use by an insurance company of any aircraft, boat, mobile home or motor vehicle which has been transferred to the company in conjunction with the settlement of a claim is taxable. The tax is to be computed upon its fair market value at the time title is acquired by the insurance company.

(d) The sale of any aircraft, boat, mobile home, or motor vehicle, including those sold for junk, by an insurance company is taxable unless the purchaser extends to the insurance company a resale certificate.

(e) All repairs of any aircraft, boat, mobile home, or motor vehicle, paid for by an insurance company in settlement of claims arising under the owner’s liability, collision, or comprehensive policy are fully taxable.

(f) The purchase of a replacement aircraft, boat, mobile home, or motor vehicle by an insurance company in settlement of a claim is taxable.

Cross Reference: See Rule 12A-1.105, F.A.C., for Application of Tax to Motor Vehicle Service Agreements.

(13) Lease or Rental.

(a)1. The rental or lease of an aircraft, boat, mobile home, or motor vehicle, which is used or stored in this state, is subject to tax. The lessor is required to be registered as a dealer and to collect tax on the total amount of the lease or rental charges.

2. The purchase by a registered dealer of an aircraft, boat, mobile home, or motor vehicle exclusively for lease or rental purposes is exempt. The purchasing dealer is required to issue the selling dealer a copy of the purchasing dealer’s Annual Resale Certificate at the time of purchase in lieu of paying tax, as provided in Rule 12A-1.039, F.A.C.

(b) Commercial Motor Vehicles.



1. For purposes of this paragraph, the term “commercial motor vehicle,” as defined in Section 316.003(66)(a), F.S., means any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle has a gross vehicle weight rating of 10,000 pounds or more.

2. The lease or rental of a commercial motor vehicle to one lessee or renter for a period of 12 months or longer, and any renewals of such lease or rental, is exempt when:

- a. Sales or use tax is paid on the purchase price of the commercial motor vehicle by the lessor; and,
- b. The lease or rental of the commercial motor vehicle is an established business or part of an established business or the commercial motor vehicle is incidental or germane to such business.

3. A credit against any Florida use tax and discretionary sales surtax due when the commercial motor vehicle is registered, licensed, or titled in Florida will be allowed to any purchaser who provides documentary evidence that a like tax has been lawfully imposed on the purchase of the commercial motor vehicle and has been paid to another state, territory of the United States, or District of Columbia. The credit allowed shall be the amount of legally imposed like tax paid to the other state, territory of the United States, or District of Columbia. When the applicable tax credit is equal to or greater than the amount of Florida use tax and discretionary sales surtax due, no additional use tax or discretionary sales surtax is due. When the tax paid to another state, territory of the United States, or District of Columbia is greater than the Florida use tax and discretionary sales surtax due, no refund is due from the State of Florida.

4. The lease or rental of the same commercial motor vehicle to any other lessee or renter is subject to tax.

(c) Motor Vehicle Leased or Rented for Less Than 12 Months.

1. The entire charge for the lease or rental of a motor vehicle for a period of less than 12 months is subject to tax when the contract to lease or rent a motor vehicle is entered into in Florida or the motor vehicle is delivered or picked up in Florida at the commencement of the lease or rental term. Florida sales tax is due during the entire lease period even when the vehicle is used in another state or dropped off in another state or the payment for the lease or rental is made in another state.

2. The entire charge for the lease or rental of a motor vehicle for a period of less than 12 months is exempt when the contract to lease or rent a motor vehicle is entered into in another state and the motor vehicle is not delivered or picked up in Florida at the commencement of the lease or rental term. This exemption applies even when the leased or rented motor vehicle is used in Florida or dropped off in Florida or the payment for the lease or rental is made in Florida.

(d) Motor Vehicle Leased or Rented for 12 Months or Longer.

1. The lease or rental of a motor vehicle registered in Florida for a period of 12 months or longer is subject to tax.

2. When the taxpayer documents that a vehicle registered in Florida is being used outside Florida and that tax is being paid on the lease or rental payments to another state, no tax is due on the lease or rental of the motor vehicle. The taxpayer must maintain copies of invoices or similar documents evidencing that the lessor is collecting another state’s sales tax from the lessee or copies of cancelled checks evidencing that the taxpayer has self-accrued and paid another state’s sales tax directly to that state.

3. When a motor vehicle that is leased or rented outside Florida is imported into Florida and registered or licensed in Florida, tax is due on the amount of the monthly lease payments. A credit against the Florida tax and discretionary sales surtax due will be allowed for any lawfully imposed sales or use tax paid to another state, territory of the United States, or District of Columbia when all the following conditions are met:

a. The other state, territory of the United States, or District of Columbia requires the lawfully imposed sales or use tax to be paid at the time of lease or rental on the total lease or rental payments due under the terms of the lease or rental agreement;

b. The tax must be lawfully imposed on the lessee. A credit will not be allowed for tax paid to another state, territory of the United States, or District of Columbia when the sales or use tax is lawfully imposed on the lessor, even though the lessee may be contractually obligated to reimburse the lessor;

c. The other state, territory of the United States, or District of Columbia does not allow a refund of the sales or use tax paid at the inception of the lease or rental agreement if the motor vehicle is removed from that state, territory of the United States, or District of Columbia; and,

d. The lessee provides documentary evidence that the like tax lawfully imposed on the sale or use of the motor vehicle has been paid to another state, territory of the United States, or District of Columbia.

4. The credit allowed against any Florida use tax and discretionary sales surtax due when the motor vehicle is licensed or registered in Florida is the amount of legally imposed like tax paid to the other state, territory of the United States, or District of Columbia. When the applicable tax credit is equal to or greater than the amount of Florida use tax and discretionary sales surtax due,

no additional use tax or discretionary sales surtax is due. When the tax paid to another state, territory of the United States, or District of Columbia is greater than the Florida use tax and discretionary sales surtax due, no refund is due from the State of Florida.

(e) Charges for the Lease or Rental of Motor Vehicles.

1. Charges for Insurance. Any separately itemized charge or fee for insurance coverage required to be paid by the lessee or renter is subject to tax. When the lessee or renter has the option to elect insurance coverage, any separately itemized charge or fee for the optional insurance coverage is not subject to tax. For example, a separately itemized charge for a “collision damage waiver fee” that is optional to the lessee or renter for the lessor’s waiver of all claims against the lessee or renter for damage to the motor vehicle is not subject to tax. A separately itemized charge for a “personal accident insurance fee” that is optional to the lessee or renter for personal injury coverage is not subject to tax.

2. Charges for Fuel. Any separately itemized charge for fuel upon which the fuel taxes imposed under Chapter 206, F.S., have been paid is not subject to tax. However, when a separately itemized charge for a fuel purchase option (e.g., “FPO – Fuel Purchase Option”) is required and no allowance is made for the amount of fuel remaining in the tank, the charge is not a charge for the price of fuel upon which the fuel taxes have been paid. Such separately itemized charges required to be paid for fuel purchase options are a part of the total lease or rental charges subject to tax.

(f) When a taxicab company, limousine company, or any other transportation for hire company rents, leases, or grants a license to use a taxicab, limousine, other vehicle, dispatch equipment, or any other tangible personal property to an independent operator, the rental, lease, or license to use such property, as well as the dispatch and all other related services which are a part of the rental, lease, or license to use, the vehicle, dispatch equipment, or other tangible personal property, are not subject to sales tax. However, the exemptions provided under this paragraph only apply if the applicable Florida sales or use tax has been paid on the acquisition of the taxicab, limousine, other vehicle, dispatch equipment, or other tangible personal property.

(14) United States and Foreign Military Personnel Stationed in Florida.

(a) United States military personnel.

1. A member of the United States military residing in Florida on military orders seeking to register or title any aircraft, boat, mobile home, motor vehicle, or other vehicle in the State of Florida which was purchased outside Florida and brought into Florida, regardless of whether the member is a Florida resident or non-Florida resident, is subject to tax. The tax applies to aircraft, boats, mobile homes, motor vehicles, and other vehicles brought into Florida upon initial entry and to those brought in on subsequent re-entry while already stationed in Florida. (Refer to subsection (2) of this rule for purchases made outside this state six (6) months or more prior to the time a vehicle is brought into Florida, and to subsection (3) for tax credit for tax legally imposed and paid outside of Florida.)

2. A member of the United States military residing in Florida on military orders is subject to tax on any aircraft, boat, mobile home, motor vehicle, or other vehicle which is purchased in Florida.

3. A member of the United States military who is a permanent resident of the State of Florida with a permanent address in the State of Florida seeking to register or title any aircraft, boat, mobile home, or motor vehicle in Florida which was purchased outside the State of Florida is subject to tax. Refer to subsection (2) of this rule for purchases made outside Florida and to subsection (3) of this rule for tax credit for tax lawfully imposed and paid to another state, territory of the United States, or District of Columbia.

(b) Foreign military personnel.

1. Foreign military personnel, their dependents, and military-employed foreign civilians, if attached to a member of the North Atlantic Treaty Organization and stationed in Florida, are exempt from use tax on any aircraft, boat, mobile home, or motor vehicle purchased outside Florida and brought into Florida, either upon initial entry or upon subsequent re-entry while already stationed in Florida. Non-U.S. members of the North Atlantic Treaty Organization are: Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Iceland, Luxembourg, Netherlands, Norway, Portugal, Spain, Turkey, and United Kingdom.

2. All foreign military personnel other than the NATO personnel referred to above are subject to tax on any aircraft, boat, mobile home, motor vehicle, or other vehicle purchased outside of Florida and subsequently brought into the state.

3. All foreign military personnel are subject to tax on any aircraft, boat, mobile home, motor vehicle, or other vehicle purchased in Florida.

(15)(a) The repossession of an aircraft, boat, mobile home, motor vehicle, or other vehicle by a seller or lienholder is not a sale subject to tax.

(b) For credit or refund of tax paid on repossessed aircraft, boats, mobile homes, motor vehicles, or other vehicles or bad debts, see Rule 12A-1.012, F.A.C.

(16) Parts and materials used by aircraft, boat, mobile home, or motor vehicle dealers in repairing, rebuilding, and reconditioning aircraft, boats, mobile homes except mobile homes which bear a "RP decal", motor vehicles, or other vehicles for sale are exempt from tax.

(17)(a) Lubricating oils and greases, automatic transmission fluids, brake fluids, motor additives, friction proofing oils, solvents, driers, and all other lubricants are taxable. The tax is due on the total selling price paid by the purchaser, including any other state and federal charges which are a part thereof.

(b) The entire lump sum charges made by a service station for grease jobs, wheel packs, and the like are taxable and are payable by the customer to the service station.

(18) All detergents and cleaners purchased by dealers and rental agencies are taxable. Vehicle polishes purchased by such dealers for use in conditioning vehicles for sale are exempt. Polishes are exempt when purchased and used by the lessor in conditioning vehicles for rental when the rental is taxable.

(19) Lubrication and grease jobs, including motor oils, performed on new and used aircraft, boats, mobile homes, motor vehicles, or other vehicles being held by the dealer for sale are exempt. In instances where the dealer services his own aircraft, boat, mobile home, or motor vehicle, tax is due on his cost of all greases and other lubricants so used and the tax due thereon shall be remitted with his regular monthly sales tax report.

(20) The purchase of flares is taxable. (See Rule 12A-1.064, F.A.C., for proration of tax where applicable.)

(21) When a new aircraft, boat, mobile home, motor vehicle, or other vehicle part proves defective and the dealer repairs it free of charge to the customer, such part, if paid for by the manufacturer or dealer under a warranty contract is exempt.

(22) A so-called land and water cruiser or trailer constructed so that it may be used as an automobile trailer and/or as a boat in navigable waters and which has living facilities and equipment usually found in ordinary mobile homes is taxable. Such a cruiser or trailer used as a boat and never as a motor vehicle or mobile home is also subject to tax.

(23) Motor Vehicle Warranty Repurchases or Replacements (Lemon Law).

(a) The following provisions shall apply when a manufacturer pursuant to the provisions of Section 681.104, F.S., replaces or repurchases a motor vehicle:

1. When the manufacturer replaces the motor vehicle, tax is due on the amount of the reasonable offset for use paid by the consumer to the manufacturer. The dealer shall note on the sales invoice, bill of sale, or other proper document representative of the transaction that the motor vehicle is a replacement motor vehicle under provisions of Section 681.104, F.S., and shall collect the tax from the consumer on the amount of the reasonable offset for use.

2.a. When the manufacturer repurchases the motor vehicle, the Department of Revenue shall refund to the manufacturer any Florida sales tax that the manufacturer refunded to the consumer, lienholder, or lessor under the provisions of Section 681.104, F.S. To receive the refund, an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) must be filed by the manufacturer. An application for refund shall not be considered complete pursuant to sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved before the manufacturer provides the required documentation listed in Form DR-26S regarding the reimbursement of tax previously paid on a vehicle purchased in Florida by a motor vehicle manufacturer when the manufacturer agrees to replace or repurchase the vehicle.

b. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

c. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(b) For purposes of this subsection the terms "manufacturer," "motor vehicle," and "reasonable offset for use" are given the same meanings as the definitions provided in Sections 681.102(13), (14) and (18), F.S.

(24) The taxable sales or lease price of a new motor vehicle when such sale or lease by a dealer occurs on or after January 1, 1989, shall not include the two (\$2) dollar fee collected from the purchaser or lessee under Chapter 681, F.S. All such fees collected by a dealer shall be remitted to the county tax collector or private tag agency acting as agent for the Department of Revenue.

(25)(a) The following transfers of ownership of any aircraft, boat, mobile home, motor vehicles, or other vehicles of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government are exempt from tax, provided that a certificate setting forth the facts and signed under penalty of perjury accompanies the application for title transfer, or if no title certificate is required by law, the application for transfer of license or registration:

1. The transfer of title as a gift. The application for title or, if no title certificate is required, the transfer of license or registration,

must be accompanied by a sworn statement which contains a description of the aircraft, boat, mobile home, motor vehicle, or other vehicle, the name and address of the donor and a statement that the title of the vehicle passed without any consideration valued in money, whether paid in money or otherwise, and that no outstanding lien on the described aircraft, boat, mobile home, motor vehicle, or other vehicle is being assumed by applicant, to be tax exempt. In lieu thereof, the Executive Director or the Executive Director's designee in the responsible division shall estimate the value of the aircraft, boat, mobile home, motor vehicle, or other vehicle and assess tax thereon accordingly. If applicant assumes outstanding lien only, the amount of such outstanding lien is the basis for the tax.

2. The transfer of title from a partnership to one of the partners as part of a complete or partial liquidation of the partnership. The transfer of title which is not in the nature of a distribution of earnings or profits of a partnership as part of the complete or partial liquidation of the partnership is subject to tax.

3. The transfer of title by a dissolved corporation to one of its stockholders as part of the stockholder's ratable portion of the assets of the corporation does not constitute a sale by the dissolved corporation to the stockholder and such transfer is exempt.

4. The transfer of title into the name of the surviving corporation by reason of a corporate consolidation or merger in accordance with Chapter 607 or 617, F.S., or a reorganization as defined in s. 368(a)(1) of the Internal Revenue Code solely in exchange for stock.

5. The distribution to the heir(s) of an estate, including the distribution to the beneficiaries of a revocable or irrevocable trust following the death of the grantor. However, the sale of an aircraft, boat, mobile home, motor vehicle, or other vehicles of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government by a personal representative of an estate is subject to the tax. See subparagraph (b)3. of this subsection.

6. The transfer of title between husband and wife of marital property.

7. The transfer of title between persons formerly married to each other if the transfer is part of the property settlement or court ordered division of marital property in a divorce decree.

8. The even trade or trade down of an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government for another aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government, even though there may be a lien. The application for title, or if no title certificate is required the license or registration, must be accompanied by a sworn statement which contains a description of the aircraft, boat, mobile home, motor vehicle, or other vehicle and the name and address of the person with which the aircraft, boat, mobile home, motor vehicle, or other vehicle was traded, to be tax exempt. In lieu thereof, the Department of Revenue shall estimate the value of the aircraft, boat, mobile home, motor vehicle, or other vehicle and assess the tax thereon accordingly.

(b) The transfer of title to an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government to or from any revocable or irrevocable trust is taxable in the following manner:

1. The transfer of title into a revocable or irrevocable trust is taxable, irrespective of whether such transfer involves married persons. The tax shall be computed on the cash or its equivalent paid for the equity transferred plus the amount of any outstanding lien(s) which is assumed by the trust.

2. The transfer of title as a gift into a revocable or irrevocable trust is not taxable. A transfer subject to a lien(s) will not qualify as a gift when any outstanding lien(s) is assumed by the trust.

3. The transfer of title from a revocable or irrevocable trust to a beneficiary of the trust, including a beneficiary who was a minor at the formation of the trust, or to any other transferee is taxable. However, if the transfer to the beneficiary occurs upon the death of the grantor as a distribution to the heirs of the grantor, such transfer is not subject to tax. The tax shall be computed on the cash or its equivalent paid for the equity transferred plus the amount of any outstanding lien(s) which is assumed by the beneficiary for which the beneficiary was not already fully liable as a co-maker on the note or other obligation evidencing the debt or lien.

(c) When title to an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is transferred from a partnership to one of the individual partners, or from one of the individual partners to a partnership, or from one partnership to another partnership, it is taxable based upon the actual consideration, or if the consideration is not stated, on the fair market value of the vehicle.

(d) When title to an aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government is transferred from an individual, who may or may

not be a stockholder, to a corporation, or from a corporation to an individual who may or may not be a stockholder, or from one corporation to another, or from a partnership to a corporation, or from a corporation to a partnership, it is presumed that a consideration flows from the transferee to the transferor, and if no consideration is stated, then it shall be presumed to be the fair market value of the vehicle. This is true even when the two corporations are owned by the same stockholders.

(e)1. When a co-owner transfers an interest in any aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government to any co-owner, tax shall apply on the transfer of such interest. The measure of tax shall be the cash or its equivalent paid for the equity transferred plus the selling co-owner's share of the liabilities assumed by the buying co-owner.

2. Notwithstanding the provisions of subparagraph 1., when a person adds or removes his or her spouse to or from the title of any aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled or documented in this state or by the United States Government, owned by the husband or wife, the transfer does not constitute a taxable transfer of ownership interest, even though the transfer of ownership accompanied by the spouse's addition to or release from an underlying note or obligation is secured by the aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government.

(f) An aircraft, boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government transferred as a gift or as a prize in a contest or drawing is taxable when registered or titled in this state by the recipient or prize winner, based on the retail value of the aircraft, boat, mobile home, motor vehicle, or other vehicle, unless the donor of the gift or prize had paid the tax on the sales price or cost price thereof.

(g)1. The transfer of title of a commercial motor vehicle is not taxable, when all of the following conditions are met:

a. The transfer of title occurs between two commonly owned and controlled corporations;

b. Such vehicle was titled and registered in this state at the time of the transfer of title; and,

c. Florida sales tax was paid at the prevailing tax rate on the acquisition of such vehicle by the transferor either on the full purchase price of such vehicle, or if the vehicle is licensed as a common carrier, to the extent provided in Section 212.08(9)(b), F.S., which is based on the ratio of intrastate mileage to interstate mileage. See Rule 12A-1.064, F.A.C., for proration of tax for vehicles used in interstate or foreign commerce.

2. The lease or rental of a commercial motor vehicle is not taxable, when all of the following conditions are met:

a. The lease or rental occurs between two commonly owned and controlled corporations;

b. Such vehicle was titled and registered in this state at the time of the lease or rental; and,

c. Florida sales tax was paid at the prevailing tax rate, either on the full purchase price of such vehicle, or if the lessor is a common carrier and the vehicle is licensed by the Interstate Commerce Commission to transport persons or property in interstate or foreign commerce to the extent provided in Section 212.08(9)(b), F.S., which is based on the ratio of intrastate mileage to interstate mileage.

See Rule 12A-1.064, F.A.C., for proration of tax for vehicles used in interstate or foreign commerce.

3.a. The term "commercial motor vehicle" for the purposes of this paragraph means any vehicle that is not owned or operated by a governmental entity; which uses special fuel or motor fuel on the public highways; and which has a gross vehicle weight in excess of 26,000 pounds, or has three (3) or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

b. The term "commercial motor vehicle" excludes any vehicle owned or operated by a coordinated community transportation provider as defined in Section 427.011, F.S., or a private operator that provides public transit services under contract with such a provider.

4. The term "commonly owned and controlled corporations" for purposes of this paragraph means a parent corporation and its wholly-owned (100%) subsidiaries.

(26)(a) The purchase or surrender of a co-ownership interest in any aircraft, boat, mobile home, motor vehicle or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States Government, or the substitution of one co-owner for another, is taxable based upon the actual consideration paid, or the fair market value, if the consideration paid is not an adequate indication of the true value of the property transferred. Example: A and B each own one-half interest in a pleasure boat. C purchases B's one-half interest in the pleasure boat. This is a taxable sale; co-ownership without the carrying on of a business for a profit is not a partnership.

(b) For purposes of this rule, a partnership is an association of two or more persons to carry on, as co-owners, a business for

profit. Limited partnerships and joint ventures are included as partnerships.

(27) Any presumption established by this rule may be rebutted only by clear and convincing evidence to the contrary.

(28) The taxability of retail sales of any aircraft, boat, mobile home, or motor vehicle will not be affected by the fact that tax has been paid previously on the sales price, cost price, rental receipts, or fair market value, because of the use or rental of the aircraft, boat, mobile home, or motor vehicle.

Cross-Reference: Rules 12A-1.037, 12A-1.064, and 12A-1.066, F.A.C.

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.03, 212.05(1), 212.06(1), (2), (4), (5), (7), (8), (10), (12), 212.0601, 212.07(2), (8), 212.08(5)(i), (7)(t), (aa), (ee), (rr), (10), (11), 212.12(2), 213.255(2), (3), 213.35, 215.26(2), 681.104 FS. History—New 10-7-68, Amended 1-7-70, 1-17-71, 6-16-72, 8-18-73, 12-11-74, 6-9-76, 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 8-1-02, 4-17-03, 4-17-03 9-28-04, 1-11-16, 1-8-19, 12-31-20, 8-15-21.*

**12A-1.032 Computer Software.**

The charge for a customized software package is construed to be a service and is not subject to tax. Retail sales of prepackaged software sold in a tangible form, where the programs are fully useable by the customer without modifications, are taxable as sales of tangible personal property. However, where the vendor, at the customer's request, modifies or alters a prepackaged program to the customer's specification and charges the customer for a single transaction, the charge is for a customized software package and is not subject to tax.

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a), 212.08(7)(v) FS. History—New 12-11-74, Amended 5-10-77, 6-29-80, Formerly 12A-1.32, Amended 8-15-21.*

### **12A-1.044 Vending Machines.**

(1)(a) For purposes of this rule, the terms “vending machine” and “vending machine operator” shall have the meaning ascribed to them in Section 212.0515(1), F.S.:

(b) For the purpose of this rule, possession of a vending machine means either actual or constructive possession and control. To determine if a person has constructive possession and control the following indicia shall be considered: right of access to the machine; duty to repair; title to the machine; risk of loss from damages to the machine; and the party possessing the keys to the money box. If, based on the indicia set out above, the owner of the machine has constructive possession and control, but the location owner has physical possession of the machine, then the operator shall be determined by who has the key to the money box and is responsible for removing the receipts. If both the owner of the machine and the location owner have the keys to the money box and are responsible for removing the receipts, then they shall designate in writing who shall be considered the operator. Absent such written designation, the owner of the machine shall be deemed to be the operator.

(2) All sales made through vending machines of food, beverages, or other items are taxed in the manner provided in Section 212.0515(2), F.S., except as provided in paragraphs (a) and (b). See subsection (2) of Rule 12A-15.011, F.A.C., for the effective tax rates for sales made through vending machines in counties imposing a discretionary sales surtax.

(a) Receipts from vending machines owned and operated by churches or synagogues are exempt.

(b) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit corporation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended, are exempt.

(c) Food and beverages sold or dispensed through vending machines or other dispensing devices located in the student lunchroom, student dining room, or other area designated for student dining in state-supported or parochial, church, and nonprofit private schools operated for and attended by pupils of grades K through 12 are exempt. See Rule 12A-1.0011, F.A.C.

(3) Registration. Owners or operators of vending machines must obtain a separate Sales and Use Tax Certificate of Registration (Form DR-11) for each county in which the machines are located. One Sales and Use Tax Certificate of Registration is sufficient for all the owner’s or operator’s machines within a single county. See Rule 12A-1.060, F.A.C. Registration violations may be reported by calling 1(800)352-9273.

(4) Purchases or leases of vending machines.

(a) The purchase or repair of a vending machine is subject to tax.

(b) The purchase of machines, machine parts and repairs, and replacements thereof that are a component part of the machine, by the machine owner or lessor for exclusive rental is exempt. The machine owner or lessor must register with the Department and must issue a copy of the dealer’s Annual Resale Certificate to the selling dealer to purchase these items tax exempt for the purposes of leasing or renting the machine.

(c) The lease or license to use a vending machine to an operator is taxable. The tax is to be collected by the machine owner or lessor from the operator. When there is an oral or written agreement for the lease or license to use a vending machine with a location owner (where the machines are located), the location owner (lessee) is required to be the operator of the machine. Sales tax shall be collected by the machine owner or lessor from the operator based on the amount the machine owner receives for the lease or license to use the machine.

(d) The purchase of machines, machine parts and repairs, and replacements thereof that become a component part of the machine, by the machine owner is taxable.

(5) If the machine operator (owner or lessee) has obtained a direct pay permit from the Department, the permit may be presented to the location owner. The direct pay permit authorizes the machine operator to self-accrue and remit the tax due on the lease or license to use the real property and relieves the location owner of this obligation.

(6) The following examples are intended to provide further clarification of the provisions of this section:

(a) Example: A vending machine owner enters into a license agreement with City Airport, which grants the machine owner the right to place vending machines in Concourse A. The vending machines consist of soft drink, snack food, and candy machines. City Airport has the right to designate the areas within the concourse where the machines will be located; the machine owner is the operator and the machine owner and owner’s employees are to stock the machines and provide repairs as needed. The machine owner (operator) is required to remit the tax on the total proceeds from the machines. In addition, as consideration under the agreement, City Airport will receive 15 percent of all proceeds from the machines. By the terms of the agreement, this arrangement is a license to use real property, and City Airport, as the licensor, must collect tax from the machine owner.

(b) Example: When a bottler removes a drink vending machine from inventory to be placed at a location on a “fill service basis”



and collects a “service charge” from the location operator for keeping the machine stocked with drinks it sells the location operator, the bottler shall declare and remit to the Department of Revenue a use tax on the value of such vending machine of 6 percent when title to the vending machine remains with the bottler and the service charge collected covers stocking the machine, making necessary repairs, repainting, and maintenance. The service charge is not taxable. All parts used in repairing the machines shall be taxed at 6 percent as use tax. The tax on all merchandise sold through the machine at 10 cents per bottle or more shall be reported to the Department by the location operator.

(c) Example: A bottler who removes from inventory a drink vending machine to be placed at a location on a “full service basis” and pays the location owner consideration for the right to place the machine at the location shall declare and remit to the Department of Revenue a use tax on the value of the vending machine when it is removed from inventory. All parts used in repairing the machine shall be taxed at 6 percent as use tax. The bottler is considered to be the operator of the machine. The tax due on all merchandise sold through the machine at 10 cents per bottle or more shall be reported by the bottler. The location owner shall collect tax from the bottler on the amount the location owner receives as a lease or license to use the real property.

(d) Example: When a bottler removes from inventory a drink vending machine to be placed at a location under an agreement where the location owner is the operator, the bottler, as a registered dealer, may extend a copy of the dealer’ Annual Resale Certificate (Form DR-13) to purchase vending machines or component parts for exclusive rental. The rental of the vending machine may either be on a per case basis or a flat monthly rate. In such instances, the tax must be collected by the bottler and remitted at the rate of 6 percent of the amount received as rental. Also, tax is due on all merchandise sold through the machine by the location owner (operator).

(7) If any vending machine used on a full service basis or for exclusive rental is later sold as a “used” machine, the sale to the purchasing customer is subject to tax.

*Rulemaking Authority 212.0515, 212.18(2), 213.06(1) FS. Law Implemented 212.031, 212.05(1)(h), 212.0515, 212.054(1), (2), (3)(l), 212.055, 212.07(1), (2), 212.08(1), (7), (8), 212.11(1), 212.12(2), (3), (4), (9), 212.18(2), (3) FS. History—New 10-7-68, Amended 6-16-72, 1-10-78, 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, 6-19-01, 11-1-05, 1-12-11, 5-9-13, 1-17-18, 8-15-21.*