

**12A-1.001 Specific Exemptions.**

(1) Art sold to or used by an educational institution.

(a) A "work of art," as defined in Section 212.08(7)(cc)8., F.S., is exempt from sales and use tax if the work of art is sold to or used by an educational institution, as defined in Section 212.08(7)(cc)8., F.S., or if it is purchased in Florida or imported into Florida within six months from the date of purchase by any person exclusively for the purpose of being donated to, or being loaned to and made available for display by, an educational institution. A work of art is presumed to have been purchased in or imported into this state exclusively for loan to an educational institution if it is so loaned or placed in storage in preparation for such a loan within 90 days after purchase or importation, whichever is later. A work of art will not be deemed to be "in storage" for purposes of this subsection if it is displayed at any place other than an educational institution.

(b) The purchaser or his authorized agent must: (1) complete an affidavit documenting entitlement to the exemption provided in Section 212.08(7)(cc), F.S., (2) present the affidavit to the seller of the work of art, and (3) forward a copy of the affidavit to the Department of Revenue when it is presented to the vendor. A purchaser may authorize his or her agent to execute such affidavit by a documented Power of Attorney and Declaration of Representative filed with the Department. The Department prescribes Form DR-835, Power of Attorney and Declaration of Representative (incorporated by reference in Rule 12-6.0015, F.A.C.), as the form to be used for such purposes.

(c) The following is a suggested format of the affidavit to be provided by the purchaser or the authorized agent to the vendor of the work of art:

**AFFIDAVIT FOR EXEMPTION OF A WORK  
OF ART TO BE DONATED OR LOANED TO  
AN EDUCATIONAL INSTITUTION**

I, the undersigned, claim exemption under Section 212.08(7)(cc), F.S., from Florida sales and use tax on the work(s) of art, described below, purchased in Florida or imported into Florida exclusively for the purpose of being (check one)

donated to \_\_\_\_\_, an educational institution as defined in Section 212.08(7)(cc)8., F.S.

loaned to \_\_\_\_\_, an educational institution as defined in Section 212.08(7)(cc)8., F.S.

If a donation, title to the work(s) of art is being or will be transferred to the educational institution, and at the time of transfer, I will submit to the Department an affidavit evidencing the transfer of title.

If a loan:

- The work(s) of art will be loaned to the educational institution or placed in storage in preparation for loan within 90 days after it was purchased in or imported into Florida. If placed in storage, it will not be displayed until such time as it is delivered to an educational institution.
- I have entered into a written agreement with the educational institution providing for a loan of the work(s) of art and making the work(s) of art available to the educational institution for display for a term of not less than 10 years, or will do so before the transfer of possession of the work(s) of art to the educational institution occurs. A copy of the loan agreement will be provided to the Florida Department of Revenue at the time that the agreement is executed.
- I understand that the exemption provided in Section 212.08(7)(cc), F.S., is allowed during the period of time in which the work(s) of art is in the possession of the educational institution.
- I understand that tax based upon the sales price as stated below will become due and payable at the time the provisions of Section 212.08(7)(cc), F.S., are no longer met, and the statute of limitations as provided in Section 95.091, F.S., will begin to run at that time. However, if I donate the work(s) of art to an educational institution after the loan ceases, no tax be due.
- A signed copy of this affidavit is being forwarded to the Florida Department of Revenue at the time the original is given to the seller of the work(s) of art.

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

Purchaser's Permanent Address \_\_\_\_\_ (Street)

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

Name of Seller \_\_\_\_\_

Seller's Permanent Address \_\_\_\_\_ (Street)

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

DESCRIPTION OF WORK(S) OF ART \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Sales Price \_\_\_\_\_ Date of Sale \_\_\_\_\_  
Name of Educational Institution \_\_\_\_\_  
Institution's Address \_\_\_\_\_ (Street)  
\_\_\_\_\_  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State)  
Educational Institution's Florida Consumer's Certificate of Exemption Number \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of Purchaser or Authorized Agent)

Original to be retained by the seller and made part of the seller's records.

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

2nd copy: Purchaser's copy.

(d) The following is a suggested format of an affidavit of transfer of title to be provided by the purchaser or the authorized agent to the educational institution, as defined in Section 212.08(7)(cc)8., F.S., upon donation of a work of art to that institution:

AFFIDAVIT TRANSFERRING TITLE OF A WORK  
OF ART TO AN EDUCATIONAL INSTITUTION

I, the undersigned, claim exemption under Section 212.08(7)(cc), F.S., from Florida sales and use tax on the work(s) of art, described below, purchased in Florida or imported into Florida for the exclusive purpose of being donated to \_\_\_\_\_, an educational institution as defined in Section 212.08(7)(cc)8., F.S. A copy of the affidavit provided to the vendor of the work(s) of art at the time of purchase is attached.

Title to the work(s) of art has been, or is being, transferred to the educational institution, effective \_\_\_\_\_ (date; no later than the date of this affidavit). Copies of any other documents evidencing the transfer of title to the educational institution are attached to this affidavit and are being forwarded to the Florida Department of Revenue with the affidavit.

A signed copy of this affidavit is being forwarded to the Florida Department of Revenue at the time the original is given to the educational institution.

Name of Transferor \_\_\_\_\_  
Transferor's Permanent Address \_\_\_\_\_ (Street)  
\_\_\_\_\_  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State)

DESCRIPTION OF WORK(S) OF ART \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Purchased \_\_\_\_\_  
Name and Address of Person from Whom Purchased \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Educational Institution \_\_\_\_\_  
Institution's Address \_\_\_\_\_ (Street)  
\_\_\_\_\_  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State)  
Educational Institution's Florida Consumer's Certificate of Exemption Number \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of Transferor)

Original to be retained by the educational institution and made part of that institution's records.

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

2nd copy: Donor's copy.

(e) The exemption provided to the purchaser of a work of art loaned to an educational institution is not terminated if the educational institution, loans the work of art to another educational institution(s) and the physical custody of such work of art is returned to the lending educational institution at the termination of the loan agreement(s). Any educational institution which transfers possession of a work of art that is exempt under this subsection to other educational institutions is required to notify the Department within 60 days of such transfers. The notification must include a description of the work of art, the name and address of the purchaser who loaned it, the names and addresses of each of the educational institutions receiving the work of art for display, and the time periods that the work of art will be displayed at each identified educational institution.

(f) Any educational institution in this state that has received from a purchaser a work of art that is exempt under this subsection is required to notify the Department within 60 days that it has received the work of art. The notification to the Department must include a description of the work of art, the name and address of the purchaser who loaned it, and the date on which the transfer of possession occurred.

(g) Any educational institution which displays a work of art received on loan that is exempt under Section 212.08(7)(cc), F.S., is required to maintain any written agreements, notifications, affidavits, and any other documentation which substantiates the educational institution's right to display the work of art until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S., and such documentation shall be made available to the Department upon request.

(h) Any educational institution that transfers from its possession a work of art received on loan that is exempt under Section 212.08(7)(cc), F.S., is required to notify the Department within 60 days after the transfer, except for transfers which do not terminate the exemption provided in Section 212.08(7)(cc), F.S., for purposes such as storage, repairs, conservation and restoration, authentication, insurance examination, valuation, appraisal, research, photography and reproduction, or fumigation during which the work of art is not displayed and the educational institution maintains documentation to substantiate that such transfers do not constitute a transfer of possession for purposes of display of such work of art. The notification to the Department must include a description of the work of art, the name and address of the purchaser who loaned it, the name and address of to whom the work of art is transferred, and the date on which the transfer of possession occurred.

(i) Documents and notifications required to be provided to the Department should be mailed to the following address:

Florida Department of Revenue  
General Tax Administration MS 1-2800  
P.O. Box 6417  
Tallahassee, Florida 32314-6417

(2) Service transactions.

(a)1. An interior decorator's so-called fee is taxable as a part of the selling price under Section 212.02(16), F.S., or as a part of the cost price under Section 212.02(4), F.S., and cannot be exempted as a professional or personal service charge when the transaction involves the sale of tangible personal property. This is true when the so-called fee is paid in the form of a trade discount, as is the case when a supplier grants the decorator a trade discount and the decorator in turn bills the client for the full list price. The decorator fee is also taxable when it appears as an amount added to the decorator's cost when billed to the client for tangible personal property on a cost plus basis.

2. If the decorator's fee is solely for designing the interior and exterior decorative scheme or for advising his clients and recommending colors, paints, wallpaper, fabrics, brands, sources of supply, etc., and there is no sale of tangible personal property involved, then such fee would be exempt as a professional or personal service transaction.

3. In some instances, the decorator may receive a fixed sum, which is not in any way contingent upon the sale of tangible personal property, as a so-called decorator fee. Then, in other completely unrelated transactions, he may sell tangible personal property to the same client. In such cases the decorator's fee cannot be considered as a part of the selling price of the property sold because there is no connection between the transactions.

4. If the decorator's client reimburses the decorator for the payroll cost of personnel on the decorator's payroll assigned to a specific project, the duties performed by such employees will determine whether or not this item is taxable. For example, if these employees were engaged in painting murals on walls, etc., the charge made for their services is exempt, whereas, if these employees

fabricate tangible personal property such as making bedspreads or draperies then the charge for their labor is taxable.

(b) When an architect or engineer furnishes his client or customer with a scale, working, or other model, the total amount he charges his customer therefor is taxable. This constitutes the sale of tangible personal property and is not exempt as an inconsequential element of a personal service transaction.

(c) The taking of dictation or the video recording by a public stenographer are exempt as professional services. Charges for attendance and the stenographic or videotape recordings of proceedings at a trial, hearing, conference, or similar function by a court reporter are exempt as professional services. Charges made by court reporters for transcripts or videotapes of proceedings are exempt as professional services when furnished to parties to the proceedings. Charges for transcripts or videotapes to third persons who are not parties to the proceedings for which the reporter was engaged are taxable.

(3) Guide dogs for the blind.

(a) A blind person who holds a Consumer's Certificate of Exemption for the Blind (Form DR-152) issued by the Department may purchase or rent a guide dog and purchase food or other items for the guide dog without payment of the tax at the time of purchase. The holder of the certificate is required to provide the certificate to the selling dealer at the time of purchase or lease. The selling dealer is required to record the name, address, and identification card number of the certificate holder on the invoice or other written evidence of the sale.

(b) Any person who holds an identification card, as provided in Section 413.091, F.S., issued by the Department of Education may apply to the Department to obtain a Consumer's Certificate of Exemption for the Blind (Form DR-152). The application submitted to the Department must be signed by the applicant and contain the applicant's name, address, and number of the identification card issued pursuant to Section 413.091, F.S. This information may be submitted to the Department on Form DR-151, Blind Person's Application for Certificate of Exemption.

(4) FLAGS. The sale of the United States flag or the official state flag of Florida is exempt. The sale of a kit as a unit which includes the flag of the United States or the official flag of Florida and related accessories, such as a mounting bracket, a standard, a halyard, and instructions on the display of the flag is also exempt. The sale of any accessories, when not sold as a part of a kit containing a flag, is taxable.

(5) Resource recovery equipment or machinery.

(a) Resource recovery equipment or machinery used in a facility owned and operated exclusively by or on behalf of any county or municipality is exempt. To qualify for exemption, the resource recovery equipment or machinery must:

1. Be certified as resource recovery equipment or machinery by the Department of Environmental Protection under Section 403.715, F.S., and Rule Chapter 62-704, F.A.C., Certification of Resource Recovery Equipment; and,
2. Be owned or operated exclusively by or on behalf of a county or municipality.

(b) To obtain certification of the resource recovery equipment or machinery, application must be made to the Department of Environmental Protection. The Department of Environmental Protection will issue a final examination and certification for qualifying resource recovery equipment or machinery after the equipment or machinery is installed and operational. Prior to the purchase and installation of qualifying resource recovery equipment or machinery, a preliminary examination report may be obtained from the Department of Environmental Protection. Persons who obtain a preliminary examination report must also obtain a final examination and certification after the equipment or machinery is installed and operational. Copies of preliminary examination reports and final examination and certifications issued by the Department of Environmental Protection are provided to the Department of Revenue.

(c)1. Preliminary examination reports. A temporary exemption applies to the resource recovery equipment or machinery specified in the preliminary examination report issued by the Department of Environmental Protection. The temporary exemption is contingent upon final examination and certification of the resource recovery equipment or machinery by the Department of Environmental Protection.

2. Applicants who have received a preliminary examination report may purchase the resource recovery equipment or machinery identified in the preliminary report tax-exempt. A county or municipality that has received a preliminary examination report may issue a copy of its Florida Consumer's Certificate of Exemption to make tax-exempt purchases of the identified resource recovery equipment or machinery. Prime contractors and subcontractors who have entered into a contractual agreement with a county or municipality to purchase the identified resource recovery equipment or machinery may purchase the equipment or machinery tax-exempt by issuing a written certification to the selling dealer. The prime contractor or subcontractor must certify that the equipment or machinery qualifies as resource recovery equipment or machinery that will be used exclusively by or on behalf of a county or

municipality, as provided in Section 212.08(7)(q), F.S. The following is a suggested format of a written certification:

**CERTIFICATION FOR RESOURCE RECOVERY EQUIPMENT OR MACHINERY**

This is to certify that the resource recovery equipment or machinery, as described below, purchased on or after \_\_\_\_\_ (DATE) from \_\_\_\_\_ (VENDOR) is purchased for use as qualifying resource recovery equipment or machinery, pursuant to Section 212.08(7)(q), Florida Statutes, and will be used exclusively by or on behalf of a county or municipality.

Resource Recovery Equipment or Machinery:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that if I use the equipment or machinery for any other purpose, I must pay tax on the purchase price of the taxable property directly to the Department of Revenue.

I understand that it is a criminal offense to fraudulently issue this certificate to evade the payment of sales tax and that I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Purchaser's Name \_\_\_\_\_

Purchaser's Address \_\_\_\_\_

Name and Title of Authorized Representative \_\_\_\_\_

By \_\_\_\_\_

(Signature of Purchaser)

\_\_\_\_\_

(Date)

3. The purchaser is required to pay tax at the time of purchase on any item identified in the preliminary examination report by the Department of Environmental Protection that does not qualify as possible resource recovery equipment or machinery.

(d) Final examination and certification. Resource recovery equipment or machinery identified in a final examination and certification issued by the Department of Environmental Protection is exempt. Applicants, prime contractors, and subcontractors who obtained a preliminary examination report are entitled to an exemption for the resource recovery equipment or machinery identified in the final examination and certification. If it is determined by the Department of Environmental Protection that an item identified in the final examination and certification does not qualify as resource recovery equipment or machinery, tax, plus the applicable penalty and interest computed from the date of purchase, is due to the Department immediately.

(e) Refunds.

1. If an applicant, prime contractor, or subcontractor did not obtain a temporary exemption from the Department to purchase resource recovery equipment or machinery identified in the final examination and certification tax-exempt, the exemption may be obtained through a refund of previously paid taxes. Refunds will not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that the resource recovery equipment or machinery meets the requirements of Section 212.08(7)(q), F.S. and this rule. The purchaser of the qualified resource recovery equipment or machinery is entitled to a refund of Florida tax paid on the qualifying resource recovery equipment or machinery. The purchaser must obtain a certified statement from its supplier(s) certifying that the supplier(s) has remitted the tax to the Department. If the purchaser paid tax directly to the Department, the purchaser is required to provide documentation that the tax was remitted directly to the Department.

2. The following is a suggested format for a certified statement to be issued by the supplier that tax has been remitted to the Department:

\_\_\_\_\_(COMPANY), its undersigned officer who is duly authorized, hereby certifies to \_\_\_\_\_(CONTRACTOR OR SUBCONTRACTOR) it has paid sales tax to the Florida Department of Revenue totaling the sum of \$\_\_\_\_\_. The taxes were collected by (COMPANY) upon the sales of equipment or machinery as evidenced by the attached invoice(s). The company further certifies the sales tax for the attached invoice(s) was paid to the Department of Revenue in the month following the date of sale under sales tax certificate number \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICER OF COMPANY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

3. 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 within 3 years after the date the tax was paid in accordance with the timing provisions of Section 215.26(2), F.S. A copy of the final examination and certification issued by the Department of Environmental Protection, the documentation to evidence the payment of Florida tax, and the certified statement(s) from the supplier(s) that tax has been remitted to the Department must accompany the application for refund. An application for refund will 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 will not be approved until the applicant can demonstrate that the resource recovery equipment or machinery has been certified by the Department of Environmental Protection and that tax on the purchase of the equipment or machinery has been remitted to the Department.

(6)(a) SPORTING EQUIPMENT. Sporting equipment brought into Florida, for a period of not more than 4 months in any calendar year, used by an athletic team or an individual athlete in a sporting event or series of sporting events is exempt from the use tax if such equipment is removed from the state within 7 days after the completion of the sporting event or a series of sporting events.

1. Example: A major league professional baseball team brings sporting equipment into Florida early in a calendar year for spring training and exhibition games, and keeps the equipment in the state for two and one-half months, and removes it from the state within 7 days after the last of the series of exhibition games. The sporting equipment is exempt from use tax, since it was in the state less than 4 months during the year, and was removed within 7 days after the last of a series of sporting events.

2. Example: A race car is brought into Florida for racing purposes. It is in the state for less than 4 months in a calendar year. The race car is exempt from use tax if the race car is removed from the state within 7 days after completion of the racing event.

(b) The exemption authorized, pursuant to Section 212.08(7)(x), F.S., as created by Chapter 87-548, L.O.F., is a use tax exemption, not a sales tax exemption.

*Rulemaking Authority 212.08(7)(h)2., (cc)3., 212.18(2), 213.06(1) FS. Law Implemented 212.05, 212.08(7)(f), (h), (q), (v), (x), (cc), 212.085, 213.255(2), (3), 213.37, 215.26 FS. History—New 1-7-68, Amended 1-7-70, 1-17-71, 6-16-72, 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00, 6-19-01, 10-2-01(1), (2), 10-2-01(2)-(7), 10-2-01(3)-(7), 8-1-02, 6-4-08, 12-31-20.*

### **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 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 contemplated by Aeronautics and Space, 14 C.F.R. s. 21.113 (1987).

b. The term "supplemental type certificate" is that certificate described in 14 C.F.R., Part 21.

2. Except as otherwise provided in subsection 12A-1.006(9), F.A.C., and paragraphs (10)(e) and (k) of this rule, all other parts, equipment, and labor not furnished or installed in connection with a major change which requires the issuance of a supplemental type certificate and the issuance of FAA Form 337 are taxable. Examples of taxable items include parts, equipment, and labor furnished or installed in connection with an air-worthiness directive, major repair, alteration (not designated as a major change), rebuilding, maintenance, or preventative maintenance.

3. The burden of proof of entitlement is on the person who claims the exemption provided in subparagraph 1. To assure that a qualifying modification is recognized by the Executive Director or the Executive Director's designee in the responsible program as exempt, 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, should be retained in the records of the business that performed it, a copy retained by the purchaser of the major change, and another copy of that form should be mailed to:

Florida Department of Revenue  
General Tax Administration MS 1-2800  
P.O. Box 6417  
Tallahassee, Florida 32314-6417.

(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) Effective October 1, 1994, separately stated labor charges for the repair and maintenance of aircraft with a maximum certified take-off weight of more than 20,000 pounds are exempt, but the charges for parts and equipment furnished in connection with such labor charges remain taxable, unless exempt under paragraphs (d) or (f) above, or in subsection 12A-1.006(9), F.A.C. If the charges for labor are not separately stated on the customer's invoice, then the entire charge for the repair or maintenance is taxable, unless the repairman (dealer) can establish by evidence in the dealer's records that the dealer furnished no parts or equipment which were incorporated into or attached to the aircraft. See paragraph 12A-1.006(1)(b), F.A.C.

(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 212.05(1), 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), (7), 212.08(5)(i), (7)(t), (aa), (ee), (10), (11), 212.12(2), (12), 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.*

### **12A-1.043 Manufacturing.**

(1)(a) Any person who manufactures, produces, compounds, processes, or fabricates in any manner an article of tangible personal property for his own use shall pay a tax upon the cost of the property manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges.

(b) Elements of cost will include the following materials, labor, service, or transportation costs that are attributable to manufacturing, producing, compounding, processing, or fabricating an article of tangible personal property for one's own use and which are properly chargeable to the cost of the product under generally accepted cost accounting standards.

1. Material costs include the following:

a. All direct materials and related freight costs that are physically observable as being identified to the finished tangible personal property, that are consumed in producing the property, or that become a component or ingredient of the finished property. See paragraphs (c) and (d) below, for calculating the tax on the cost of the finished product when sales tax has or has not been paid on direct materials.

b. Material handling and warehousing of direct materials and goods in process.

c. Manufacturer's excise taxes on materials.

2. Labor costs include the following:

a. The total direct labor costs for employees or contract labor that are allocable to the production of the finished property, including the entire amount of payroll burden, which includes but is not limited to overtime premium, vacation and holiday pay, sick leave pay, shift differential, payroll taxes, payments to a supplemental unemployment benefit plan, and employee fringe benefits.

b. Compensation of officers, to the extent it is allocated to production and not administrative functions.

c. Costs of service, engineering, design or other support employees allocated to production.

3. Service costs include the costs of non-employee services that are allocated to the production of the tangible personal property, such as engineering, design or similar consulting or professional services.

(c) Direct materials on which the tax has been paid shall not be included when computing the tax on the cost of items of tangible personal property manufactured, produced, compounded, processed, or fabricated.

(d) Persons who manufacture, produce, compound, process, or fabricate items of tangible personal property for resale or for their own use or consumption may purchase direct materials tax exempt but shall include the cost of the direct materials when computing tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated for such persons' own use or consumption. If tax has been paid on the direct materials, the method described in paragraph (c) should be used when computing the tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated.

(e)1. To purchase direct materials tax exempt, dealers registered with the Department to sell tangible personal property may extend a copy of their Annual Resale Certificate (Form DR-13) to the selling dealer in lieu of paying tax at the time of purchase. The cost of such materials is subject to tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated, as provided in paragraph (d).

2. Persons who do not sell tangible personal property are not required to register with the Department as a dealer. However, to purchase direct materials tax exempt, such persons may extend an Exemption Certificate, as provided in Rule 12A-1.038, F.A.C., to the selling dealer in lieu of paying tax at the time of purchase. The cost of such materials is subject to tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated, as provided in paragraph (d).

(f) The tax is due at the time the article of tangible personal property is manufactured, produced, compounded, processed, or fabricated for use or consumption, and such tax shall be remitted to the Department of Revenue in accordance with Rule 12A-1.056, F.A.C.

(2) Fabrication labor shall not be taxable where a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture. "Qualified motion picture" means all or any part of a series of related images, either on film, tape, or other embodiment, including but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints and all sound recordings created to accompany a motion picture, which is produced, adapted, or altered for exploitation in, on, or through any medium or device and at any location primarily for entertainment, commercial, industrial, or educational purposes.

(3)(a) Any person who manufactures factory-built buildings for his own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the person's cost price of items used in the manufacture of such buildings.

(b) For the purpose of this exemption, "factory-built building" means a structure manufactured in a manufacturing facility for

installation or erection as a finished building; “factory-built building” includes, but is not limited to, residential, commercial, institutional, storage, and industrial structures.

(4) Any person who manufactures asphalt for his own use shall calculate and remit the use tax on such asphalt, as provided in subsection 12A-1.051(12), F.A.C.

(5)(a)1. No tax shall be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment, used in such operations.

2.a. Tax is not imposed upon electrical power or energy, steam energy, or other energy manufactured or produced for a person’s own use at a single location, when such power or energy is used directly and exclusively at such location, or at other locations if the energy is transferred through facilities of the owner, in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations.

b. Electrical power or energy manufactured or produced for a person’s own use transmitted and distributed by a public utility to such person’s facility at another location is taxable based upon the cost price of such power or energy without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges.

3. Electrical power or energy manufactured or produced for a person’s own use that is used for space heating, lighting, office equipment, air conditioning, or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, or nonfabricating activity is taxable based upon the cost price of such power or energy without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges.

(b) Tax is not imposed upon the manufacture or production of electrical power or energy when such electrical power or energy is consumed or dissipated in the transmission or distribution of electrical power or energy for resale.

(6)(a) Tangible personal property manufactured, produced, compounded, processed, or fabricated for use directly and solely in research or development, and machinery and equipment used predominantly for research or development purposes are exempt when the research or development has one of the following as its ultimate goal:

1. Basic research or the advancement of knowledge or technology in a scientific or technical field of endeavor.
2. The development of a new product, the improvement of an existing product, or the development of new uses of an existing product, whether or not the product is offered for sale.
3. The design and development of prototypes, whether or not a resulting product is offered for sale.

(b) For the purpose of this subsection:

1. “Machinery and equipment” includes, but is not limited to, molds, dies, machine tooling, and other appurtenances or accessories for machinery and equipment, testing and measuring equipment, test beds, and computers and software. Such machinery and equipment may be purchased, leased, or self-fabricated. If self-fabricated, the machinery and equipment includes the materials and labor for the design, fabrication, and assembly of such items.

2. “Predominantly” means at least 50 percent of the time.

3. “Product” means any item, device, technique, prototype, invention, or process, which is, was, or may become, commercially exploitable.

(c) Research or development does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literature, history, social science, psychology, or other similar nontechnical activities.

(d)1. Materials and labor may be purchased tax-exempt when the purchaser extends an exemption certificate to the vendor or supplier certifying that the materials and labor will be used directly and solely for research or development purposes, as provided in Section 212.052, F.S.

2. The following is a suggested format for an exemption certificate for purchases of materials and labor:

EXEMPTION CERTIFICATE  
ITEMS OF TANGIBLE PERSONAL PROPERTY AND LABOR  
USED IN RESEARCH OR DEVELOPMENT

This is to certify that purchases of tangible personal property or labor on or after \_\_\_\_\_ (date) from \_\_\_\_\_ (Selling Dealer’s Business Name) will be directly and solely used in research or development activities, as provided in Section 212.052, F.S.

These research or development activities are located at:

\_\_\_\_\_  
(Street)

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

I understand that if I fraudulently issue this certificate to evade the payment of tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in Section 775.082, 775.083 or 775.084, F.S.

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

\_\_\_\_\_  
Purchaser's Name (Print or Type)

\_\_\_\_\_  
Purchaser's Address

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Florida Sales and Use Tax Number (if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Employer's Identification Number  
(if applicable)

(e)1. Machinery and equipment, including materials and labor used in the self-fabrication of machinery and equipment, may be purchased or leased tax-exempt when the purchaser extends an affidavit to the vendor or supplier stating that the item(s) will be used predominantly for research or development purposes, as provided in Section 212.08(18), F.S.

2. The following is a suggested format of an affidavit to be provided to the selling dealer or lessor:

**AFFIDAVIT  
MACHINERY AND EQUIPMENT USED IN RESEARCH OR DEVELOPMENT**

I, the undersigned individual, hereby declare that the purchase(s) or lease(s) of machinery and equipment, including materials and labor used in the self-fabrication of machinery and equipment, on or after \_\_\_\_\_ (date) from \_\_\_\_\_ (Selling Dealer's Business Name), will be used predominantly in research or development activities, as provided in Section 212.08(18), F.S.

These research or development activities are located at:

\_\_\_\_\_  
(Street)

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

I understand that if I fraudulently issue this affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and be subject to conviction of a third degree felony.

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

\_\_\_\_\_  
Purchaser's Name (Print or Type)

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Date

(f) Instead of furnishing an exemption certificate, as provided in paragraph (d), or an affidavit, as provided in paragraph (e), any purchaser who holds a valid Sales and Use Tax Direct Pay Permit, as provided in Rule 12A-1.0911, F.A.C., may extend a copy of the permit to the selling dealer to make purchases tax-exempt under this subsection.

(g) When a prototype or product of research or development is used by the developer for any purpose other than research or

development, including being offered for sale, it is subject to tax.

*Rulemaking Authority 212.052(5), 212.08(18)(c), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), 212.052, 212.06(1), 212.08(18), 212.085, 212.12(12) FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 1-19-74, 12-26-83, Formerly 12A-1.43, Amended 1-2-89, 2-28-90, 3-20-96, 7-27-99, 10-2-01, 9-15-08, 12-31-20.*

**12A-1.0071 Boats Temporarily Docked in Florida.**

(1)(a) Notwithstanding the provisions of Chapter 328, F.S., pertaining to the registration of vessels, a boat upon which sales or use tax has not been paid is exempt from the use tax if it enters and remains in Florida for a period not to exceed a total of 20 days in any calendar year, calculated from the date of first dockage or slippage at a facility registered with the Department.

(b)1. When a boat brought into Florida is placed in a facility that is registered as a dealer with the Department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 20-day period is tolled during the time the boat is physically in the care, custody, and control of the repair facility.

2. The 20-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility, including the time spent on sea trials conducted by the facility; however, the owner may request and the Department is authorized to grant an additional tolling of the 20-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, when the guarantee covers only those repairs or modifications made during the first tolled period. All requests for additional tolling must be addressed to the Florida Department of Revenue, General Tax Administration MS 1-2800, P.O. Box 6417, Tallahassee, Florida 32314-6417. All requests for the additional tolling period must be in writing, setting out the boat owner's name; the boat's description, which includes the name, make, model, year, serial number, and hull identification number of the boat; the trade name and mailing address of the registered repair facility; and the registered repair facility's dealer's certificate of registration number assigned by the Department. The Department will notify the dealer in writing of its determination of the request for the additional tolling period, and will grant the additional tolling, if the documentation provided is complete and guarantees to cover only the repairs or modifications made during the first tolled period. Additionally, a copy of the written guarantee required in this subsection shall be maintained as a part of the repair facility's records for 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.

(c)1. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must have in its possession, within 72 hours after the date of release, a copy of the release form which shows the date of release and a copy of the certification of any necessary sea trials performed by the repair facility, including the dates and time of the sea trial necessary to test the designated repairs, alterations, modifications, or seaworthiness of the boat, and the release of the boat. In addition, the repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The records required in this subsection shall be maintained as a part of the repair facility's records 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 retained by the dealer and made a part of the dealer's records when a boat is placed by a nonresident owner in a facility, registered with the Department of Revenue, for repairs, alterations, refitting, or modifications:

**AFFIDAVIT FOR BOATS PLACED IN A REGISTERED REPAIR FACILITY**

I, the undersigned, affirm that the hereinafter described boat is under the below repair facility's care, custody, and control for repairs, alterations, refitting, or modifications, and that the owner does not use the boat while in this facility.

NAME OF REPAIR FACILITY: \_\_\_\_\_

ADDRESS OF REPAIR FACILITY: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)

REPAIR FACILITY'S SALES & USE TAX REGISTRATION NUMBER: \_\_\_\_\_

DATE BOAT PLACED IN REPAIR FACILITY FOR REPAIRS, ALTERATIONS, REFITTING, OR MODIFICATIONS: \_\_\_\_\_ (Month) (Day) (Year)

NAME OF BOAT OWNER: \_\_\_\_\_

BOAT OWNER'S PERMANENT ADDRESS: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)

**DESCRIPTION OF BOAT**

Name of Boat \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_

Serial Number \_\_\_\_\_ Hull I.D. Number \_\_\_\_\_

**DESCRIPTION OF REPAIRS, ALTERATIONS, REFITTING, OR MODIFICATIONS TO BE MADE**

\_\_\_\_\_

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 Dealer: \_\_\_\_\_

Under penalties of perjury, I declare that I have not used the above described boat while it was in the care, custody, and control of the repair facility.

\_\_\_\_\_  
Signature of Boat Owner

\_\_\_\_\_  
Date

The repairs, alterations, refitting, or modifications to the above described boat are completed and the boat was released:

\_\_\_\_\_  
(Month) (Day) (Year)

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

\_\_\_\_\_  
Date

3. The following is a suggested format for a certification to be retained by the dealer and made a part of the dealer's records when a sea trial is conducted by the facility on a boat, placed by a nonresident owner in a facility, registered with the Department of Revenue, for repairs, alterations, refitting, or modifications:

**SEA TRIALS OF BOATS PLACED IN A REGISTERED REPAIR FACILITY**

NAME OF THE REPAIR FACILITY: \_\_\_\_\_

ADDRESS OF REPAIR FACILITY: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)

REPAIR FACILITY'S SALES & USE TAX REGISTRATION NUMBER: \_\_\_\_\_

DATE BOAT PLACED IN REPAIR FACILITY FOR REPAIRS, ALTERATIONS, REFITTING, OR  
MODIFICATIONS: \_\_\_\_\_ (Month) (Day) (Year)

NAME OF BOAT OWNER: \_\_\_\_\_

BOAT OWNER'S PERMANENT ADDRESS: \_\_\_\_\_ (Street)  
\_\_\_\_\_ (City) \_\_\_\_\_ (State)

**DESCRIPTION OF BOAT**

Name of Boat \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_

Serial Number \_\_\_\_\_ Hull I.D. Number \_\_\_\_\_

**DESCRIPTION OF REPAIRS, ALTERATIONS, REFITTING, MODIFICATIONS, OR SEAWORTHINESS TO BE TESTED, INCLUDING THE TIME REQUIRED TO PERFORM SEA TRIAL:**

\_\_\_\_\_  
Under penalties of perjury, I declare that the sea trial, as specified above, is necessary to test the repairs, alterations, refitting, modifications, or seaworthiness of the vessel specified, and that I have not used or permitted any use of the above described vessel for purposes other than those specified above.

\_\_\_\_\_  
(Signature of Boat Owner)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Dealer)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

The testing of the repairs, alterations, refitting, modifications, or seaworthiness of the above described vessel was performed during the following time period and we affirm the length and scope of the voyage were reasonably necessary to test the repairs or modifications:

Beginning: \_\_\_\_\_ / \_\_\_\_\_



Ending: \_\_\_\_\_ / \_\_\_\_\_  
 (Month) (Day)  
 \_\_\_\_\_ / \_\_\_\_\_  
 (Year) (Time)  
 \_\_\_\_\_ / \_\_\_\_\_  
 (Month) (Day)  
 \_\_\_\_\_ / \_\_\_\_\_  
 (Year) (Time)

\_\_\_\_\_  
 (Signature of Boat Owner) (Date)

\_\_\_\_\_  
 (Signature of Dealer) (Date)

(d) When, within 6 months after the date of its purchase, a boat is brought into Florida and placed into a facility registered with the Department for repairs, alterations, refitting, or modifications as provided in the rule, the 6-month period provided in Section 212.05(1)(a)2. or 212.06(8), F.S., is tolled.

(e) During the period of repairs, alterations, refitting, or modifications and during the 20-day period the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the Department without incurring a use tax. The sale of the boat is subject to tax.

(f) The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in Florida.

(2) As used in this section, “registered repair facility” means:

(a) A full-service facility that:

1. Registered as a dealer with the Department of Revenue;
2. Is located on a navigable body of water;
3. Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;
4. Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and,
5. Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

(b) A marina that:

1. Registered as a dealer with the Department of Revenue;
2. Is located on a navigable body of water;
3. Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and,
4. Has necessary shops and equipment to provide repairs or warranty work on vessels; or

(c) A shoreside facility that:

1. Registered as a dealer with the Department of Revenue;
2. Is located on a navigable body of water;
3. Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and,
4. Has necessary shops and equipment to provide repairs or warranty work.

(3) A “sea trial” means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel.

**12A-1.0641 Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes.**

(1) Scope. This rule is intended to provide guidelines for the partial exemption for vessels and vessel parts provided in Section 212.08(8), F.S., to persons who transport persons or property for hire in interstate or foreign commerce or who operate commercial fishing vessels.

(2) Vessels.

(a) Vessels that are used to transport persons or property for hire in interstate or foreign commerce and commercial fishing vessels are subject to the partial exemption provided in Section 212.08(8), F.S. Tax imposed is based on the ratio of Florida mileage to total mileage traveled by the carrier's vessels that were used in interstate or foreign commerce or for commercial fishing purposes and that had at least some Florida mileage during the previous fiscal year of the carrier.

(b) The mileage of vessels from the territorial limit to port dockside and return into international waters, foreign or coastwise, in the continuous movement of persons or property in interstate or foreign commerce is not considered to be mileage in Florida.

(c) "Commercial fishing vessels" include vessels designed, constructed, and used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters for sale. Vessels used for sports or pleasure fishing, such as pleasure fishing boats, charter boats, or party boats, are not commercial fishing vessels.

(d) Vessels used in intrastate commerce exclusively within the territorial waters of Florida do not qualify for the partial exemption.

(e) Vessels that are not operated to transport persons or property for hire in interstate or foreign commerce, even though such vessels may move persons or property across the Florida state line, do not qualify for the partial exemption. For example, a dredge is operated by a company to transport its workmen and equipment between two states. The dredge is not operated to transport persons or property for hire in interstate or foreign commerce, because the company is not receiving compensation for transporting its own workmen. The purchase of the dredge does not qualify for the partial exemption.

(f) Vessels that are not engaged in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes are subject to tax, as provided in Section 212.05, F.S.

(3) Computation of mileage apportionment factor and tax due.

(a) Vessel owners are required, at the end of each fiscal year of operation, to determine the ratio of Florida mileage to total mileage traveled by the owner's vessels operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that had at least some Florida mileage during the fiscal year. The ratio computed is the owner's mileage apportionment factor to be applied to purchases, leases, and rentals of vessels, and parts thereof, subject to the partial exemption under Section 212.08(8), F.S., during the following fiscal year.

(b) Vessel owners are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to purchases and leases of vessels, and parts thereof, that will be operated exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes during the current fiscal year. Vessel owners are required to calculate and report tax to the Department on a monthly basis.

(c) During the owner's initial year of operation in Florida, the owner's mileage apportionment factor may be determined on the basis of the ratio of anticipated Florida mileage to anticipated total mileage for that year for the owner's vessels used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the owner is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The owner is required to pay any additional tax due based on the actual mileage ratio. The tax is due with the owner's return due for the first month of the owner's second year of operation in this state. The owner may take a credit or apply to the Department for a refund of tax paid, as provided in Rule 12A-1.014, F.A.C., when the tax paid based on the estimated mileage ratio exceeds the tax due based on the actual mileage ratio for the initial year of operation.

(4) Claiming the exemption at the time of purchase of a vessel.

(a) To claim the exemption at the time of purchase of a vessel that will be used exclusively in non-Florida waters to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes, the vessel owner, or the owner's agent or representative purchasing the vessel, is required to issue an affidavit to the selling dealer. The purchaser executing the affidavit must affirm that the vessel is for the exclusive use designated in Section 212.08(8), F.S., the vessel will be used exclusively in non-Florida waters, and the vessel will not be used for sport or pleasure fishing purposes. Purchasers who purchase vessels solely for this purpose require no registration with the Department. A suggested format of an affidavit is provided in paragraph (d).

(b)1. To claim the partial exemption at the time of purchase, the person purchasing a vessel used in interstate or foreign commerce in both Florida and non-Florida waters or purchasing a commercial fishing vessel is required to:

a. Hold a valid sales and use tax certificate of registration;

b. Hold a valid Sales and Use Tax Direct Pay Permit issued by the Department. To obtain a direct pay permit, the purchaser of the vessel is required to file an Application for Self-Accrual Authority/Direct Pay Permit (Form DR-16A) with the Department, as provided in Rule 12A-1.0911, F.A.C.; and,

c. Execute an affidavit to the selling dealer affirming that the vessel is for the exclusive use designated in Section 212.08(8), F.S., the vessel will not be used for sport or pleasure fishing purposes, and the basis of the tax due on the purchase of the vessel. A suggested affidavit is provided in paragraph (d).

(c) Any owner who executes an affidavit to purchase a vessel used in both Florida and non-Florida waters for use in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is required to remit the tax based on the owner's mileage apportionment factor to the Department. The owner is required to remit such tax when the owner's agent or representative has executed an affidavit.

(d) The following is a suggested format of an affidavit to be executed at the time of purchase by the owner or the owner's agent or representative to the dealer selling or leasing the vessel:

AFFIDAVIT  
VESSELS USED TO TRANSPORT PERSONS OR PROPERTY  
FOR HIRE IN INTERSTATE OR FOREIGN COMMERCE  
OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby declare that I am the purchaser or the purchaser's agent or representative authorized to act for the purchaser in the purchase of the vessel described below. The option checked below applies to this purchase:

( ) The vessel will be used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not operate in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

( ) The vessel will be used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. The purchaser holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under Section 212.08(8), F.S., at the rate of \_\_\_% of the sales price of the vessel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel and is delinquent on the 21st day of that month.

DESCRIPTION OF VESSEL: \_\_\_\_\_

NAME OF VESSEL: \_\_\_\_\_

STATE REGISTRATION NUMBER: \_\_\_\_\_

COAST GUARD DOCUMENTATION NUMBER: \_\_\_\_\_

MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

YEAR: \_\_\_\_\_ SERIAL NUMBER: \_\_\_\_\_

SALES PRICE OF DESIGNATED VESSEL: \_\_\_\_\_

NAME OF SELLING DEALER: \_\_\_\_\_

SELLING DEALER'S ADDRESS: \_\_\_\_\_

SELLING DEALER'S SALES TAX NO.: \_\_\_\_\_

NAME OF VESSEL OWNER: \_\_\_\_\_

NAME OF PURCHASER: \_\_\_\_\_

PURCHASER'S TITLE OR DESIGNATION: \_\_\_\_\_

VESSEL OWNER'S SALES TAX NO.: \_\_\_\_\_

I understand that if I fraudulently issue this affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

\_\_\_\_\_

SIGNATURE OF PURCHASER OR PURCHASER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(5) Parts and other items used on vessels.

(a) Vessel parts and other items purchased or leased in Florida that are appropriate to perform the purposes for which a vessel operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is designed or equipped are subject to the partial exemption provided in Section 212.08(8), F.S. Tax is based on the owner's mileage apportionment factor. Examples of these items are: ice, bait, charts, foul weather gear, ropes, fishing tackle, logs, cooking utensils, and paper supplies.

(b) Charges for repairs or the maintenance of vessels to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are performed in Florida are subject to the partial exemption. The tax is based on the owner's mileage apportionment factor.

(c)1. Items purchased or leased in Florida that are not appropriate to perform the purposes for which a vessel is operated, designed, or equipped are subject to tax at the rate imposed by Section 212.05(1), F.S.

2. Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of a vessel while the vessel is within Florida are subject to tax at the rate imposed by section 212.05(1), F.S.

(d) Nets, and parts used in the repair of nets, are exempt when used exclusively by commercial fisheries. To claim the exemption, the fishery is required to issue an exemption certificate to the seller. A suggested format of an exemption certificate is provided in Rule 12A-1.087, F.A.C.

(e) The vessel owner, operator, or the owner's agent or representative is required to execute an affidavit to the selling dealer to purchase, lease, or rent vessel parts and other items subject to the partial exemption tax-exempt at the time of purchase. The owner is required to pay tax on vessel parts and other qualified items based on the owner's mileage apportionment factor directly to the Department. The following is a suggested format of the affidavit:

AFFIDAVIT

VESSEL PARTS AND ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS  
DESIGNED, EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL  
FISHING PURPOSES

I, the undersigned individual, hereby declare that I am the owner, operator, or the owner's agent or representative authorized to act for the owner in the purchase of the items used on the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_.

I hereby declare that the named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and the items purchased from the seller listed on INVOICE NO(S). \_\_\_\_\_ will be used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used.

I hereby declare that: (The option checked below applies to this purchase.)

( ) The items purchased will be used exclusively on the named vessel in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not be operated in or on the canals or waterways, or within the territorial waters, of Florida. The items purchased are not subject to Florida sales tax.

( ) The items purchased will be used exclusively on the named vessel in both non-Florida waters and in Florida territorial waters. The owner holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under Section 212.08(8), F.S., at the rate of \_\_\_\_\_% of the sales price of the vessel parts and items directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel parts and items and is delinquent on the 21st day of that month.

I understand that if I fraudulently issue this affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

\_\_\_\_\_  
SIGNATURE OF VESSEL OWNER, OPERATOR, OR OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(6) Dyed diesel fuel used in interstate or foreign commerce or for commercial fishing purposes.

(a)1. The sale of dyed diesel fuel placed into the storage tank of a vessel or equipment used exclusively for commercial fishing and aquacultural purposes is exempt. "Commercial fishing and aquacultural purposes" means fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of food fish, freshwater fish, marine fish, saltwater fish, and shellfish as defined in Section 379.101, F.S., from any Florida waters for resale to the public.

2. This exemption does not include fuel used for sport or pleasure fishing or fuel used in any vehicle or equipment driven or operated upon the highways of Florida.

3. To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the purchaser is required to provide an exemption certificate to the selling dealer declaring that the fuel will be used exclusively in equipment or a vessel for commercial fishing or aquacultural purposes. The following is a suggested format of a certificate:

EXEMPTION CERTIFICATE  
DYED DIESEL FUEL USED EXCLUSIVELY FOR  
COMMERCIAL FISHING OR AQUACULTURAL PURPOSES

I certify that dyed diesel fuel placed in the storage tank of a vessel or equipment on or after \_\_\_\_\_  
(Date) from \_\_\_\_\_ (Selling Vendor's Name) will be used exclusively in equipment or a vessel for commercial fishing or aquacultural purposes.

I understand that if I use the purchased dyed diesel fuel for any nonexempt purpose, I must pay tax on the purchase price of the dyed diesel fuel directly to the Florida Department of Revenue.

I understand that if I fraudulently issue this exemption certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax, plus a penalty of 200% of the tax, and may be subject to conviction of a third degree felony.

Under penalties of perjury, I declare that I have read the foregoing exemption certificate and the facts stated in it are true.

\_\_\_\_\_  
SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(b)1. The sale of dyed diesel fuel to the owner, operator, or the owner's agent or representative of vessels operated to transport persons or property for hire in interstate or foreign commerce is subject to the partial exemption provided in section 212.08(4)(a)2., F.S. Tax imposed is based on the vessel owner's mileage apportionment factor.

2. To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the owner, operator, or the owner's agent or representative is required to execute an exemption certificate to the selling dealer declaring that the fuel will be used in a vessel operated to transport persons or property for hire in interstate or foreign commerce. The following is a suggested format of an exemption certificate:

SUGGESTED EXEMPTION CERTIFICATE  
DYED DIESEL FUEL FOR USE IN A VESSEL OPERATED  
IN INTERSTATE OR FOREIGN COMMERCE

I, the undersigned individual, as the owner, operator, or the owner's agent or representative of the vessel, \_\_\_\_\_,  
Home Port of \_\_\_\_\_, certify the following. The option checked below applies to this purchase:

( ) The named vessel is used to transport persons or property for hire in interstate or foreign commerce in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel will not be used to operate the vessel in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

( ) The named vessel is used to transport persons or property for hire in interstate or foreign commerce in non-Florida waters and in Florida territorial waters. The fuel will be used to operate vessels in interstate or foreign commerce and is subject to the partial exemption provided in Section 212.08(4)(a)2., F.S. The owner holds a valid sales and use tax certificate of registration issued by the Florida Department of Revenue and must pay tax due on the fuel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the fuel and is delinquent on the 21st day of that month.

I understand that if I fraudulently issue this exemption certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

\_\_\_\_\_  
SIGNATURE OF OWNER, OPERATOR, OR OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(7) Refunds to claim the partial exemption.

(a) Persons who are entitled to the partial exemption provided in Section 212.08(4)(a)2. or 212.08(8), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Persons seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. The certified statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (c).

2. When seeking a refund of tax paid in excess of the tax due on vessels in excess of the tax due under the partial exemption, execute an affidavit affirming that the designated vessel or designated vessel parts are subject to the partial exemption and the extent of that partial exemption. The affidavit is to be submitted to the Department with an Application for Refund-Sales and Use Tax. Suggested formats of the affidavits are provided in paragraphs (d) and (e).

3. When seeking a refund of sales tax paid on diesel fuel purchased in excess of the tax due under the partial exemption, execute a statement that the fuel purchased qualified for the exemption. The statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (f).

4. File with the Department an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including any required statement or affidavit, that meets the requirements of sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., within 3 years after the date the tax was paid.

(c) The following is a suggested format for a certified statement to be executed by the selling dealer to evidence that tax paid to the selling dealer has been remitted to the Department of Revenue:

CERTIFICATE

TAX PAID TO THE DEPARTMENT OF REVENUE

The undersigned officer who is duly authorized by \_\_\_\_\_,  
SELLING DEALER, hereby certifies to \_\_\_\_\_, PURCHASER, it has paid sales tax to the Florida Department of Revenue, totaling the sum of \$\_\_\_\_\_.

The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month(s) of \_\_\_\_\_ under sales tax number \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICER

\_\_\_\_\_  
TITLE

(d) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer in excess of the tax due on vessels operated in interstate or foreign commerce or for commercial fishing purposes:

AFFIDAVIT

SALES TAX PAID TO THE SELLING DEALER FOR  
A VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR  
FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby declare that I am the owner, operator, or the owner's agent or representative authorized to act for the owner or operator in the purchase of the vessel described below. The option checked below applies to this purchase:

( ) The vessel is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid Florida sales tax to the seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in the amount of \$\_\_\_\_\_ directly from the Florida Department of Revenue.

( ) The vessel is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to Section 212.08(8), F.S. I understand that, as the purchaser, I must pay tax imposed under Section 212.08(8), F.S., at the rate of \_\_\_\_\_ % of the sales price of the vessel and am requesting a refund of tax paid in the amount of \$\_\_\_\_\_ directly from the Florida Department of Revenue.

DESCRIPTION OF VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES:

NAME OF VESSEL: \_\_\_\_\_

STATE REGISTRATION NUMBER: \_\_\_\_\_

COAST GUARD DOCUMENTATION NUMBER: \_\_\_\_\_

MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

YEAR: \_\_\_\_\_ SERIAL NUMBER: \_\_\_\_\_

SALES PRICE OF DESIGNATED VESSEL: \_\_\_\_\_

NAME OF SELLING DEALER: \_\_\_\_\_

SELLING DEALER'S ADDRESS: \_\_\_\_\_

SELLING DEALER'S SALES TAX NO.: \_\_\_\_\_

VESSEL OWNER OR OWNER'S AGENT OR REPRESENTATIVE: \_\_\_\_\_

TITLE OR DESIGNATION: \_\_\_\_\_

I understand that if I fraudulently issue this affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

\_\_\_\_\_  
SIGNATURE OF OWNER, OPERATOR, OR OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(e) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer on items appropriate to carry out the purpose for which a vessel is designed, equipped, and used in interstate or foreign commerce or for commercial fishing purposes:

AFFIDAVIT  
ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED,  
EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE  
OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the owner, operator, or the owner's agent or representative of the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_, hereby declare that the items purchased from the seller listed on

INVOICE NO(S). \_\_\_\_\_ are used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes. The option checked below applies to the items purchased:

( ) The items purchased are used on the named vessel that is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid Florida sales tax to the seller and am applying directly to the Florida Department of Revenue to obtain a refund of sales tax paid to the seller.

( ) The items purchased are used on the named vessel that is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due under Section 212.08(8), F.S. I understand, that as the owner or operator of the vessel, that I must pay tax imposed under Section 212.08(8), F.S., at the rate of \_\_\_\_\_ % of the sales price of the vessel parts and items and am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

I understand that if I fraudulently issue this affidavit to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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

\_\_\_\_\_  
SIGNATURE OF THE VESSEL OWNER, OPERATOR, OR THE OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(f) The following is a suggested format of a certificate to be provided to the Department to obtain a refund of tax paid to the selling dealer on fuel in excess of the partial exemption provided in Section 212.08(4)(a)2., F.S.:

#### CERTIFICATE

#### TAX PAID ON FUEL USED IN A VESSEL OPERATED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the owner, operator, or the owner's agent or representative of the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_, hereby certify that the fuel purchased from the seller listed on INVOICE NO(S). \_\_\_\_\_ is used on the named vessel engaged in transporting persons or property for hire in interstate or foreign commerce or engaged in commercial fishing. The option checked below applies to this purchase of fuel.

( ) The fuel was used in the named vessel used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel was not used to operate the named vessel in or on the canals or waterways, or within territorial waters, of Florida and is not subject to Florida sales tax. I am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

( ) The fuel was used in the named vessel used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to Section 212.08(4)(a)2., F.S. I understand that, as the purchaser, I must pay tax imposed under Section 212.08(4)(a)2., F.S., at the rate of \_\_\_\_\_ % of the sales price of the fuel and am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

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



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SIGNATURE OF OWNER, OPERATOR, OR OWNER'S AGENT OR REPRESENTATIVE

---

TITLE OR DESIGNATION

---

DATE

(8) Damage claims and demurrage charges by carriers.

(a) The payment of a damage claim by a vessel owner or operator to any person for damage suffered by merchandise in transit is not a sale of tangible personal property and is not subject to tax, even when the carrier retains the damaged property under settlement of the claim.

(b) The charge for repairs of the damaged property to the vessel owner or operator is subject to tax.

(c) Any person who maintains and operates a salvage depot to sell merchandise damaged in transit and acquired in settlement of a damage claim is required to collect sales tax on sales of the damaged property.

(d) Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not for the rental or lease of property and are not subject to tax. Example: The charge made to a shipper for the retention of a marine-cargo container beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how the charge is designated.

(9) Recordkeeping requirements.

(a) Dealers must maintain copies of affidavits, direct pay permits, certificates, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required affidavits, certificates, and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

*Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0501(4), 212.06(1), 212.08(4)(a)2., 4., (8), 212.085, 213.37 FS. History—New 6-12-03, Amended 5-9-13, 5-9-13, 1-20-14, 12-31-20.*

**12A-1.097 Public Use Forms.**

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) Copies of these forms, except those denoted by an asterisk (\*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's website at [floridarevenue.com/forms](http://floridarevenue.com/forms); or, 2) calling the Department at (850)488-6800, Monday through Friday, (excluding holidays); or, 3) writing the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(b) Forms (certifications) specifically denoted by an asterisk (\*) are issued by the Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Florida Department of Revenue  
Taxpayer Services  
5050 West Tennessee Street  
Tallahassee, Florida 32399-0112.

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11781">http://www.flrules.org/Gateway/reference.asp?No=Ref-11781</a> )	03/20
(b) DR-1N	Registering Your Business ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-12309">http://www.flrules.org/Gateway/reference.asp?No=Ref-12309</a> )	01/21
(c) DR-1CON	Application for Consolidated Sales and Use Tax Filing Number (R. 01/16) ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06358">http://www.flrules.org/Gateway/reference.asp?No=Ref-06358</a> )	01/16
(d) DR-1A	Application for Registered Businesses to Add a New Florida Location ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11782">http://www.flrules.org/Gateway/reference.asp?No=Ref-11782</a> )	03/20
(e) DR-1C	Application for Collective Registered of Living or Sleeping Accommodations ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11783">http://www.flrules.org/Gateway/reference.asp?No=Ref-11783</a> )	03/20
(f) DR-1CCN	Application for Sales and Use Tax County Control Reporting Number ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11784">http://www.flrules.org/Gateway/reference.asp?No=Ref-11784</a> )	03/20
(3) DR-5	Application for Consumer's Certificate of Exemption with Instructions (R. 01/17) ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07745">http://www.flrules.org/Gateway/reference.asp?No=Ref-07745</a> )	01/17
(4)(a) DR-7	Consolidated Sales and Use Tax Return ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11378">http://www.flrules.org/Gateway/reference.asp?No=Ref-11378</a> )	01/20
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-12310">http://www.flrules.org/Gateway/reference.asp?No=Ref-12310</a> )	01/21
(c) DR-15CON	Consolidated Summary – Sales and Use Tax Return ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11378">http://www.flrules.org/Gateway/reference.asp?No=Ref-11378</a> )	01/20
(5)(a) DR-15	Sales and Use Tax Return ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11380">http://www.flrules.org/Gateway/reference.asp?No=Ref-11380</a> )	01/20
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-12311">http://www.flrules.org/Gateway/reference.asp?No=Ref-12311</a> )	01/21
(c) DR-15AIR	Sales and Use Tax Return for Aircraft (R. 01/16) ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06361">http://www.flrules.org/Gateway/reference.asp?No=Ref-06361</a> )	01/16
(d) DR-15EZ	Sales and Use Tax Return ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11382">http://www.flrules.org/Gateway/reference.asp?No=Ref-11382</a> )	01/20
(e) DR-15EZN	Instructions for DR-15EZ Sales and Use Tax Returns ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-12312">http://www.flrules.org/Gateway/reference.asp?No=Ref-12312</a> )	01/21
(f) DR-15JEZ	Application for the Exemption of Electrical Energy Used in an Enterprise Zone (R. 08/09)	06/10
(g) DR-15MO	Out-of-State Purchase Return (R. 01/16)	01/16

	<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06363">http://www.flrules.org/Gateway/reference.asp?No=Ref-06363</a>	
(h) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax (R. 10/09)	06/10
(i) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit (R. 06/08)	09/09
(j) EZ-E	Florida Enterprise Zone Program – Business Equipment Sales Tax Refund Application for Eligibility (R. 07/01)	08/02
(k) EZ-M	Florida Enterprise Zone Program – Building Materials Sales Tax Refund Application for Eligibility (R. 07/05)	04/06
(6)(a) DR-16A	Application for Self-Accrual Authority/Direct Pay Permit (R. 01/15) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-04858">http://www.flrules.org/Gateway/reference.asp?No=Ref-04858</a>	01/15
(b) DR-16P*	Sales and Use Tax Direct Pay Permit (R. 01/16) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06364">http://www.flrules.org/Gateway/reference.asp?No=Ref-06364</a>	01/16
(c) DR-16R	Renewal Notice and Application for Sales and Use Tax Direct Pay Permit (R. 01/15) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-04859">http://www.flrules.org/Gateway/reference.asp?No=Ref-04859</a>	01/15
(7) DR-17A	Certificate of Cash Deposit or Cash Bond (R. 01/16) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06365">http://www.flrules.org/Gateway/reference.asp?No=Ref-06365</a>	01/16
(8)(a) DR-18	Application for Amusement Machine Certificate (R. 01/16) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06366">http://www.flrules.org/Gateway/reference.asp?No=Ref-06366</a>	01/16
(8)(b) DR-18-N	Application for Amusement Machine Certificate General Information and Instructions <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06366">http://www.flrules.org/Gateway/reference.asp?No=Ref-06366</a>	01/16
(8)(c) DR-18R	Amusement Machine Certificate Renewal Application (N. 03/17) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07853">http://www.flrules.org/Gateway/reference.asp?No=Ref-07853</a>	03/17
(8)(d) DR-18RS	Amusement Machine Certificate Renewal Application Second Notice (N. 03/17) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07854">http://www.flrules.org/Gateway/reference.asp?No=Ref-07854</a>	03/17
(9) DR-26RP	Florida Neighborhood Revitalization Program Application for Sales and Use Tax (R. 01/17) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07748">http://www.flrules.org/Gateway/reference.asp?No=Ref-07748</a>	01/17
(10) DR-29	Application for Release or Refund of Security (R. 01/16) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06367">http://www.flrules.org/Gateway/reference.asp?No=Ref-06367</a>	01/16
(11) DR-46NT	Nontaxable Medical Items and General Grocery List <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11384">http://www.flrules.org/Gateway/reference.asp?No=Ref-11384</a>	01/20
(12) DR-72-2	Declaration of Taxable Status – Trailer Camps, Mobile Home Parks, and Recreational Vehicle Parks (R. 01/17) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07749">http://www.flrules.org/Gateway/reference.asp?No=Ref-07749</a>	01/17
(13) DR-95B	Schedule of Tax Credits Claimed on Repossessed Tangible Personal Property <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-10175">http://www.flrules.org/Gateway/reference.asp?No=Ref-10175</a>	01/19
(14) DR-99A	Affidavit for Occasional or Isolated Sale of a Motor Vehicle (R. 01/17) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-07750">http://www.flrules.org/Gateway/reference.asp?No=Ref-07750</a>	01/17
(15) DR-123	Partial Exemption for Motor Vehicle Sold to Resident of Another State: Affidavit <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-12313">http://www.flrules.org/Gateway/reference.asp?No=Ref-12313</a>	01/21
(16) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (R. 06/12)	06/12
(17) DR-1214	Application for Temporary Tax Exemption Permit (R. 01/16) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06371">http://www.flrules.org/Gateway/reference.asp?No=Ref-06371</a>	01/16
(18)(a) DR-117000	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application for a Credit Allocation <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11202">http://www.flrules.org/Gateway/reference.asp?No=Ref-11202</a>	10/19

(b) DR-117100	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application to Change a Credit Allocation ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11203">http://www.flrules.org/Gateway/reference.asp?No=Ref-11203</a> )	10/19
(c) DR-117200	Florida Tax Credit Scholarship Program for Commercial Rental Property – Application for Rescindment of a Credit Allocation ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11204">http://www.flrules.org/Gateway/reference.asp?No=Ref-11204</a> )	10/19
(d) DR-117300	Florida Tax Credit Scholarship Program for Commercial Rental Property – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11205">http://www.flrules.org/Gateway/reference.asp?No=Ref-11205</a> )	10/19
(19) DR-300400	Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes (R. 01/16) ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06372">http://www.flrules.org/Gateway/reference.asp?No=Ref-06372</a> )	01/16
(20) DR-600013	Request for Verification that Customers are Authorized to Purchase for Resale (R. 01/16) ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-06373">http://www.flrules.org/Gateway/reference.asp?No=Ref-06373</a> )	01/16
(21) DR-1214DCP	Application for Data Center Property Temporary Tax Exemption Certificate ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-09254">http://www.flrules.org/Gateway/reference.asp?No=Ref-09254</a> )	04/18
(22) DR-5DCP	Application for Data Center Property Certificate of Exemption ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-09255">http://www.flrules.org/Gateway/reference.asp?No=Ref-09255</a> )	04/18
(23) DR-26SIGEN	Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted Living Facilities ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-10174">http://www.flrules.org/Gateway/reference.asp?No=Ref-10174</a> )	01/19
(24)(a) DR-HS1	Hope Scholarship Program – Contribution Election ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11206">http://www.flrules.org/Gateway/reference.asp?No=Ref-11206</a> )	10/19
(b) DR-HS2	Hope Scholarship Program – Dealer Contribution Collection Report ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11207">http://www.flrules.org/Gateway/reference.asp?No=Ref-11207</a> )	10/19
(c) DR-HS3	Hope Scholarship Program – Contributions Received by an Eligible Nonprofit Scholarship-Funding Organization ( <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-11208">http://www.flrules.org/Gateway/reference.asp?No=Ref-11208</a> )	10/19

*Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.099(10), 212.11(5)(b), 212.12(1)(a)2., 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7), 1002.40(16) FS. Law Implemented 92.525(1)(b), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.22(3)-(6), 202.28(1), 203.01, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.099, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.14(2), (4), (5), 212.18(2), (3), 212.183, 212.1832, 213.235(1), (2), 213.29, 213.37, 213.755, 215.26(6), 219.07, 288.1258, 290.00677, 365.172(9), 376.70(2), 376.75(2), 403.718, 403.7185(3), 443.131, 443.1315, 443.1316, 443.171(2), 1002.40(13) FS. History–New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, 1-17-13, 5-9-13, 1-20-14, 1-19-15, 1-11-16, 4-5-16, 1-10-17, 2-9-17, 1-17-18, 4-16-18, 1-8-19, 10-28-19, 12-12-19, 3-25-20, 12-31-20.*

**12A-1.104 Sales of Property to be Transported to a Cooperating State.**

(1) Tax is levied on the sales of tangible personal property to be transported to a cooperating state at the rate at which the sale would have been taxed pursuant to the cooperating state's tax laws if consummated in the cooperating state by a dealer and a purchaser, both of whom were physically present in that state at the time of sale.

(2)(a) Notwithstanding other provisions of this section, a Florida dealer will be relieved from the requirement of collecting tax on sales of tangible personal property to be transported to a cooperating state if the Florida dealer obtains from the purchaser an affidavit setting forth the purchaser's name, address, state tax identification number, and a statement that the purchaser is aware of his state's use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay tax on the transaction.

(b) The following is a suggested affidavit to be used by a Florida dealer when making sales of tangible personal property to be transported to a cooperating state in accordance with paragraph (a):

**AFFIDAVIT FOR EXEMPTION OF PROPERTY SOLD TO BE TRANSPORTED  
TO THE COOPERATING STATE OF \_\_\_\_\_ (name of state)**

As the undersigned purchaser, I hereby declare the following statements are true to the best of my knowledge and belief:

- The purchaser has ordered, is ordering, or will order from a Florida dealer tangible personal property of the following description: \_\_\_\_\_;
- The property was ordered to be transported to the above state;
- The sale of the above property was, is, or will be exempt from tax on the sale of tangible personal property by the Florida dealer for one or more of the following reasons, as designated: \_\_\_\_\_;
- The purchaser is aware of their state's use tax laws; \_\_\_\_\_
- The purchaser is a registered dealer for purposes of Florida's sales and use taxes;
- The purchaser is a registered dealer for purposes of the sales and use taxes of the following state other than Florida: \_\_\_\_\_;
- The above tangible personal property was, is being, or will be purchased for resale;
- The sale of the above property would, if consummated in the state to which transported, be exempt for the following reason or reasons: \_\_\_\_\_; and
- The sale of the above property is exempt for the following reason or reasons \_\_\_\_\_.

\_\_\_\_\_  
(Purchaser's signature)

\_\_\_\_\_  
(Purchaser's name printed)

\_\_\_\_\_  
(Purchaser's address printed)

\_\_\_\_\_  
(State Taxpayer Identification Number, if applicable)

\_\_\_\_\_  
(Date)

**(3) Audits and Records of Dealers.**

(a) Dealers selling tangible personal property for delivery in another state shall make available to the Department, upon request, records of all tangible personal property so sold.

(b) The dealer's records of sales of tangible personal property for delivery in another state shall include:

1. A description of the property sold;
2. The name and address of the purchaser;
3. The name and address of the person to whom the property was transported;
4. The purchase price of the property; and,
5. Information regarding whether sales tax was paid in this state on the purchase price, and, if so, the amount of tax paid.

(4) Definitions. The following terms and phrases when used in this section shall have the meaning ascribed to them except where the content clearly indicates a different meaning:

- (a)1. A "cooperating state" is a state of the United States that has been designated by the executive director of the Department of

Revenue as one which cooperates satisfactorily with this state in collecting taxes on mail order sales.

2. No state shall be designated as a “cooperating state” unless it meets all the following minimum requirements:

a. It levies and collects taxes on mail order sales of property transported from that state to persons in this state, as described in Section 212.0596, F.S., upon request of the department.

b. The tax so collected shall be at the rate specified in Section 212.05, F.S., not including any local option or tourist or convention development taxes collected pursuant to Section 125.0104, F.S., or this part.

c. Such state agrees to remit to the department all taxes so collected no later than 30 days from the last day of the calendar quarter following their collection.

d. Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in subsection (2).

e. Such state authorizes the department to audit dealers within its jurisdiction who make mail order sales that are the subject of Section 212.0596, F.S., or makes arrangements deemed adequate by the department for auditing them with its own personnel.

(b) A “dealer” is a person doing business in this state who sells at retail, who offers for sale at retail, or who has in his possession for sale at retail, or has sold at retail, tangible personal property, including a retailer who transacts a mail order sale.

(c) “Sales of tangible personal property to be transported to a cooperating state” means mail order sales to a person who is in the cooperating state at the time the order is executed, from a dealer who receives that order in this state.

*Rulemaking Authority 212.06(3)(b)2., 212.18(2), 213.06(1) FS. Law Implemented 212.06(3) FS. History—New 12-8-87, Amended 12-31-20.*