

Section I

Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.006	Charges by Dealers Who Adjust, Apply, Alter, Install, Maintain, Remodel, or Repair Tangible Personal Property
12A-1.007	Aircraft, Boats, Mobile Homes, and Motor Vehicles
12A-1.032	Computers and Related Systems
12A-1.044	Vending Machines
12A-1.111	Department of Revenue Electronic Database

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12A-1.006, F.A.C. (Charges by Dealers Who Adjust, Apply, Alter, Install, Maintain, Remodel, or Repair Tangible Personal Property) is to: (1) remove provisions regarding charges for the repair and maintenance of certain aircraft that are provided in paragraph 12A-1.007(10)(j), F.A.C., as revised; (2) consolidate provisions for the taxability of materials used in the repair of all items of tangible personal property into a single provision, removing redundant provisions; and (3) remove the requirement to provide a certificate stating that a treaty exempts the repair of aircraft owned by foreign governments which repair is specifically exempt under s. 212.06(5)(a)1., F.S., and provided in paragraph 12A-1.007(10)(d), F.A.C.

The purpose of the proposed amendments to subsection 12A-1.007(10), F.A.C. (Aircraft), is to: (1) incorporate, by reference, 14 C.F.R. s. 21.113, regarding aircraft modification services performed under authority of a supplemental type certificate issued by the Federal Aviation Administration; (2) remove the requirement for documents supporting the exemption for aircraft modifications performed under a supplemental type certificate to be provided to the Department; (3) remove provisions for the taxability of materials used in the repair of aircraft, an item of tangible personal property, redundant of the provisions of subsection 12A-1.006(1), F.A.C.; and (4) incorporate the exemptions provided in s. 212.08(7)(ee) and (rr), F.S., for replacement engines, parts, equipment, and labor charges for the repair and maintenance of aircraft of more than 2,000 pounds maximum certified takeoff weight, removing obsolete provisions.

The purpose of the proposed substantial rewording of Rule 12A-1.032, F.A.C., is to: (1) change the rule title to “Computer Software”; (2) continue to provide when modified or altered software developed as requested and specified by the customer is not subject to tax; and (3) remove unnecessary definitions and provisions for the taxability of the sale, rental, or time-share of

tangible personal property related to computers and components, and to non-taxable charges for professional services using computers and related items to perform such service.

The purpose of the proposed revisions to Rule 12A-1.044, F.A.C., is to remove paragraph (5)(a), which provides that sales tax is due on the amount received by a property owner from a vending machine owner for the operation of a vending machine on the property. This rule paragraph was held invalid by the First District Court of Appeal (Case No. 1D19-0437) which affirmed the Final Order issued by the Division of Administrative Hearings in *GBR Enterprises, Inc. v. Department of Revenue* (DOAH Case No. 18-4475RX).

The purpose of creating Rule 12A-1.111, F.A.C., Department of Revenue Electronic Database, is to adopt Emergency Rule 12AER20-13, F.A.C., as a permanent rule and incorporate, by reference, Form DR-700023, Notification of No Change to the Address/Jurisdiction Database for Sales and Use Tax. This rule implements the provisions of s. 212.181, F.S., expanding the current Address/Jurisdiction Database established by s. 202.22(2), F.S., to allow authorized county personnel to submit changes to the county assignment of business addresses. These submitted situs changes are for purposes of sales tax, discretionary sales surtax, and any tourist development tax required to be remitted to the Department of Revenue.

SUBJECT AREA TO BE ADDRESSED: The specific exemptions provided for the repair and maintenance of certain aircraft and the repeal of unnecessary provisions related to computers and related components. The removal of provisions ruled invalid by the Division of Administrative Hearings. The expansion of Florida’s Address/Jurisdiction Database to determine local tax situs for sales tax purposes.

RULEMAKING AUTHORITY: 212.0515, 212.18(2), 212.181(4), 213.06(1), FS.

LAW IMPLEMENTED: 202.22(2), 212.03, 212.031, 212.05(1), 212.0515, 212.054(1), (2), (3)(1), 212.055, 212.06(1), (2), (4), (5), (7), (8), (10), (12), 212.0601, 212.07(1), (2), 7), 212.08(1), (5), (7), (8), (10), (11), 212.11(1), 212.12(2), (3), (4), (9), (12), 212.18(2), (3), 212.181, 213.35, 215.26(2), 681.104, FS.

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

DATE AND TIME: May 19, 2021, 11:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building 1, Room 2503, Tallahassee, Florida 32399.

SPECIAL COVID-19 CONSIDERATIONS: The Governor of the State of Florida has declared a state of emergency due to the COVID-19 pandemic. To minimize exposure to COVID-19 and help protect visitors and employees, Department offices are

temporarily closed to the public. If Department offices remain closed to the public at the time of this hearing due to the COVID-19 pandemic, the hearing will take place using electronic media. Anyone wishing to participate in this public hearing must register at <https://attendee.gotowebinar.com/register/2223529585380739340>. Additional updates, including any potential developments regarding the closure status of Department offices, may be found on the Department's website at: floridarevenue.com/rules.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Tonya Fulford at (850)717-6799. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS: Published on the Department's website at floridarevenue.com/rules.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.: RULE TITLES:
12A-19.071 Department of Revenue Electronic Database
12A-19.100 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed revisions to Rule 12A-19.071, F.A.C., Department of Revenue Electronic Database, is to adopt Emergency Rule 12AER20-14, F.A.C., as a permanent rule. The proposed revisions reflect changes to existing forms resulting from the creation of Rule 12A-1.111, F.A.C., remove obsolete language (e.g., downloading the database to magnetic computer tapes), and update processes related to the submission of changes to Florida's Address/Jurisdiction Database.

The purpose of the proposed revisions to Rule, 12A-19.100, Public Use Forms, is to incorporate, by reference, revised forms. The following forms have been revised to accommodate the creation of Rule 12A-1.111, F.A.C.: Form DR-700022, Notification of Changes to the Address/Jurisdiction Database;

Form DR-700025, Objection to Address Assignment in the Address/Jurisdiction Database; Form DR-700027, Local Government Authorization for Omission of Address or Incorrect Address Identification. Form DR-700016, Florida Communications Services Tax Return, which has been updated to reflect the Florida Supreme Court decision which struck down the 1% transportation discretionary sales surtax that was adopted in an initiative election by Hillsborough County voters in November 2018. [Robert Emerson, et al. v Hillsborough County, Florida, etc., et al., No. SC2019-1250 (Fla.)]

SUBJECT AREA TO BE ADDRESSED: The adoption of updated rule language and forms relating to Florida's Address/Jurisdiction Database, as well as an updated Communications Services Tax Return.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.22(6)(a), 202.26(3), 202.27(1), (7), FS. LAW IMPLEMENTED: 175.1015, 185.085, 202.12(1), (3), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(2), (6), 202.23, 202.27, 202.28(1), (2), 202.29, 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2), FS.

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DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: RULE TITLE:

12B-8.0016 Department of Revenue Electronic Database
PURPOSE AND EFFECT: The purpose of the proposed revisions to Rule 12B-8.0016, F.A.C., Department of Revenue Electronic Database, is to adopt Emergency Rule 12BER20-16, F.A.C., as a permanent rule. The proposed revisions reflect changes to existing forms resulting from the creation of Rule 12A-1.111, F.A.C., remove obsolete language (e.g., downloading the database to magnetic computer tapes), and update processes related to the submission of changes to Florida's Address/Jurisdiction Database.

SUBJECT AREA TO BE ADDRESSED: The adoption of updated rule language relating to Florida's Address/Jurisdiction Database.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), FS.

LAW IMPLEMENTED: 175.1015, 185.085, FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS: Published on the Department's website at floridarevenue.com/rules.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the specialties of licensed clinical laboratory personnel who may perform all molecular pathology procedures that are classified within the scope of the license specialty.

SUBJECT AREA TO BE ADDRESSED: Scope of Practice Relative to Specialty of Licensure.

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Christina McGinnis, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.