



Florida Department of Revenue  
Tax Information Publication

**TIP**

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**Public Works Contracts – New Requirement for a Certificate of Entitlement**

Section 212.08(6), Florida Statutes (F.S.) and Rule 12A-1.094, Florida Administrative Code (F.A.C.), (Public Works Contracts), govern the taxability of transactions in which contractors and subcontractors purchase supplies and materials for use in public works contracts. Public works contracts are projects for public use or enjoyment, financed and owned by the government, in which private persons install tangible personal property that becomes a part of a public facility. The exemption in Section 212.08(6), Florida Statutes (F.S.), is a general exemption for sales made directly to the government. Rule 12A-1.094, F.A.C., establishes the criteria that govern whether a governmental entity, rather than the public works contractor, is the purchaser of the materials.

Effective January 2, 2011, Section 8, Chapter 2010-138, Laws of Florida (L.O.F.), requires governmental entities (excluding the federal government) to issue a Certificate of Entitlement to each vendor and each contractor in order to purchase supplies and materials for use in public works contracts tax-exempt under Section 212.08(6), F.S. The Certificate of Entitlement certifies that: (1) the materials and supplies purchased will become part of a public facility; (2) the governmental entity will be liable for any tax, penalty, or interest due should the Department later determine that the items purchased do not qualify for exemption; and (3) the criteria established in Rule 12A-1.094, F.A.C., are being followed.

No changes are being made to the criteria established in Rule 12A-1.094(4)(b), F.A.C., to determine whether a governmental entity, rather than the public works contractor, is the purchaser of the materials. The purpose of the proposed amendment to Rule 12A-1.094, F.A.C., is to: (1) maintain, without change, the current criteria governing whether a governmental entity is the purchaser of materials and supplies that qualify for exemption under Section 212.08(6), F.S.; (2) provide the requirements and format of the Certificate of Entitlement required by Section 8, Chapter 2010-138, L.O.F., effective January 2, 2011; and (3) provide that the governmental entity is prohibited from transferring the liability for tax, penalty, and interest to another party by contract or agreement.

**A rule development workshop will be conducted August 25, 2010, to address the Certificate of Entitlement. The proposed rule and meeting time and place are on the Department of Revenue Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor).**

**References: Section 212.08(6), Florida Statutes (2010) and Chapter 2010-138, Laws of Florida (Section 8, CS/HB 7157, 1<sup>st</sup> Engrossed)**

**FOR MORE INFORMATION**

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor) or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

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All taxes administered by the Department of Revenue are eligible, except unemployment tax and Miami-Dade County Lake Belt Fees.  
Visit [www.myflorida.com/dor/amnesty](http://www.myflorida.com/dor/amnesty) to find out more.