

Notice of Development of Rulemaking

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:RULE TITLES:

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

12A-1.012 Repossessed Merchandise and Bad Debts

12A-1.0144 Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.007, F.A.C., is to: (1) correct the title provided for Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida, incorporated by reference in Rule 12A-1.097, F.A.C., (2) clarify that this rule provides for application of Florida tax or surtax to the replacement or repurchase of a motor vehicle; (3) clarify that Florida tax and surtax are due on the reasonable offset for use attributed to the consumer that is contained in the written agreement for repurchasing the motor vehicle, as provided in Chapter 681, F.S., Motor Vehicle Warranty Enforcement Act; (4) remove provisions regarding the calculation of the reasonable offset, which is not administered by the Department of Revenue; (5) simplify the calculation of sales tax and surtax due to be refunded to the consumer on a repurchased motor vehicle; and (6) remove obsolete provisions for obtaining a refund of tax paid prior to July 1, 1999.

The purpose of the proposed amendments to Rule 12A-1.012, F.A.C., is to: (1) remove the recitation of statutory provisions regarding the taxability of sales made on any kind of deferred payment plan; (2) clarify that the repossession and redemption of tangible personal property is not subject to tax; (3) consolidate provisions for obtaining a credit or refund of tax paid on repossessed items, including motor vehicles; (4) clarify when a tax credit or refund may be obtained by a dealer who sold property that is subsequently repossessed when the dealer holds a security interest in the property by contract; (5) provide how to obtain a refund or credit of tax paid on repossessed tangible personal property and the information and documentation required to establish the right to a refund or credit; and (6) remove unnecessary provisions for dealers that obtain payment from a common carrier for damages of items sold by the dealer.

The purpose of the proposed repeal of Rule 12A-1.0144, F.A.C., is to bring the rule into compliance with the expiration of Section 212.08(7)(hhh), F.S., effective July 1, 2016, which provided for a refund of sales tax paid for purchases of certain types of equipment, machinery, and other materials for renewable energy technologies.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C., is to (1) correct the title provided for Form DR-123, Affidavit for Partial Exemption of Motor Vehicle Sold to a Resident of Another State for Licensing Outside Florida; (2) consolidate two forms, Forms DR-95A and DR-95B, currently used to determine the amount of sales tax refund due on repossessed tangible personal property and repossessed motor vehicles, into a single form; (3) incorporate statutory elimination of the \$5.00 registration fee required of persons that submit a Florida Business Tax Application (Form DR-1), as provided in Section 29 of Chapter 2017-36, L.O.F., (4) incorporate statutory elimination of the \$30.00 registration fee required of owners or operators of drycleaning and dry drop-off facilities that submit a Florida Business Tax Application (Form DR-1), as provided in Section 42 of Chapter 2017-36, L.O.F., and (5) incorporate the statutory elimination of those fees from the instructions for completing the Florida Business Tax Application (Form DR-1N).

SUBJECT AREA TO BE ADDRESSED: The subjects of the rule workshop are: (1) updated provisions for sales for export as applied to sales of aircraft, boats, mobile homes, or motor vehicles; (2) clarification that tax does not apply to the occasional or isolated sales of appurtenances that are sold in conjunction with the sale of a mobile home; (3) clarification and simplification of procedures to obtain a tax refund when a motor vehicle is replaced or repurchased under the provisions of Chapter 681, F.S. (Motor Vehicle Sales Warranties); (4) updates and clarification of procedures to obtain a refund or credit of tax paid on repossessed tangible personal property and the information and documentation required to establish the right to a refund or credit; (5) the expiration of Section 212.08(7)(hhh), F.S.; (6) repeal of obsolete forms and rule sections; and (7) updates to the Florida Business Tax Application (Form DR-1) and instructions for completing the Florida Business Tax Application (Form DR-1N).

RULEMAKING AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.05(1), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 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) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0601, 212.0606, 212.07(1), (2), (7), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (5), (6), (9), (12), (13), 212.13, 212.14(2), (4), (5), 212.17, 212.18(2), (3), 212.183, 213.235, 213.255, (2), (3), 213.29, 213.37, 213.755, 215.26, 219.07, 288.1258, 290.00677, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 681.102(13)-(14), (20)-(21), 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: November 16, 2017, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building 1, Room 1220, Tallahassee, Florida

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: Becky Avrett at (850)617-8346 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: Brinton Hevey, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone: (850)717-7082.

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