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Section IV
Emergency Rules

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:
12ER21-3 Grounds for Reasonable Cause for Compromise of Penalties.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26, Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 5, Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 5 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 5 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-3 amends Rule 12-13.007, F.A.C., by replacing the term "mail order sale" with "remote sale."

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER21-3 12-13.007 Grounds for Reasonable Cause for Compromise of Penalties.

(1) through (10) No change

(11) Reasonable cause shall be presumed to exist whenever a person who is not otherwise required to register as a dealer pursuant to Chapter 212, F.S., purchases consumer goods for personal use pursuant to a remote mail-order sale and remits

Florida use tax and interest, either voluntarily or in prompt response to a proposed assessment, assessment, or use tax billing issued by the Department.

(12) through (14) No change

Rulemaking Authority 213.06(1), 213.21(5) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 213.05, 213.21 FS, Section 5 of Chapter 2021-2, L.O.F. History--New 5-23-89, Amended 8-10-92, 5-18-94, 10-2-01, 10-29-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:
12ER21-4 Guidelines for Determining Amount of Compromise.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26, Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 5, Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 5 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 5 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-4 amends Rule 12-13.0075, F.A.C., by replacing the term "mail order sale" with "remote sale."

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER21-4 12-13.0075 Guidelines for Determining Amount of Compromise.

(1) through (9) No change

(10) Remote Mail-Order Sales. When a taxpayer who is not otherwise required to be registered pursuant to Chapter 212, F.S., purchases consumer goods for personal use pursuant to a remote mail-order sale and subsequently promptly remits the tax and interest in response to a use tax billing issued by the Department for such goods, or voluntarily remits such tax and

interest prior to any billing, the Department will compromise all penalties.

(11) through (12) No change

Rulemaking Authority 212.07(9)(c), 213.06(1), 213.21(5), (9) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.07(9), 212.12(14), 213.05, 213.21, 213.24(3) FS, Sections 5, 11, and 21 of Chapter 2021-2, L.O.F. History—New 8-10-92, Amended 10-2-01, 10-29-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

12ER21-5 Scope of Rules.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 10 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the requirement that marketplace providers and taxpayers required to collect sales tax on remote sales must file returns and remit taxes electronically.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 10 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 10 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-5 amends Rule 12-24.001, F.A.C., by adding a Section 10 of Chapter 2021-2, Laws of Florida, to the list of statutes administered in Part I of Chapter 12-24, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER21-5 ~~12-24.001~~ Scope of Rules.

Part I of this rule chapter sets forth the rules to be used by the Department of Revenue in the administration of Sections 202.30, 206.485, 213.755, and 220.21(2) and (3), F.S., and Section 10, Chapter 2021-2, L.O.F., authorizing the Executive Director to require taxpayers specified by statute or rule to pay taxes and fees and to file tax returns by electronic means. Part I

of this rule chapter also sets forth the rules to be used by the Department in administering Section 443.163, F.S.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS, Section 10 of Chapter 2021-2, L.O.F. History—New 12-19-89, Amended 10-24-96, 4-30-02, 10-5-03, 6-1-09, 2-17-15, 11-12-20.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

12ER21-6 Requirements to File or to Pay Taxes by Electronic Means.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 10 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the requirement that marketplace providers and taxpayers required to collect sales tax on remote sales must file returns and remit taxes electronically.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 10 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 10 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-6 amends Rule 12-24.003, F.A.C., by adding marketplace providers and taxpayers required to collect sales tax on remote sales to the list of taxpayers who are required to file returns electronically.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER21-6 ~~12-24.003~~ Requirements to File or to Pay Taxes by Electronic Means.

(1) through (2) No change

(3) The following dealers must timely file Florida sales and use tax returns and remit sales tax and discretionary sales surtax to the Department by electronic means.

(a) A marketplace provider that is a dealer under Chapter 212, F.S., as amended by Chapter 2021-2, L.O.F.

(b) A person who is required to collect and remit sales tax on remote sales.

(3) through (5) renumbered (4) through (6) No change Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.163 FS, Section 10 of Chapter 2021-2, L.O.F. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, 6-28-10, 2-17-15, 11-12-20.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-7 Admissions.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Sections 11 and 21 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the replacement of the current sales tax bracket system with a rounding algorithm for the calculation of sales tax.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Sections 11 and 21 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Sections 11 and 21 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-7 amends Rule 12A-1.005, F.A.C., by including the new provisions regarding the replacement of the sales tax bracket system with a rounding algorithm.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-7 ~~12A-1.005~~ Admissions.

(1)(a) Every person is exercising a taxable privilege when such person sells or receives anything of value by way of admissions, as defined in Section 212.02(1), F.S., except those admissions that are specifically exempt. Such seller is required to collect tax on the sales price or actual value of such admissions pursuant to Section 212.04(1)(b), F.S., as amended by Section 18, Chapter 2021-2, L.O.F. Tax due must be calculated using the rounding algorithm as provided in Section 212.12(10), F.S., as amended by Section 11, Chapter 2021-2, L.O.F. ~~each admission charge for 10 cents or more the amount of tax provided for by the applicable bracket provided in Section 212.12(9), F.S.~~ Each admission is a single sale. The seller may apply the rounding algorithm to the aggregate tax amount computed on all taxable admissions on an invoice or to the taxable amount of each individual admission on the invoice.

(b) No change

~~(c)1. The tax shall be computed and collected by the seller on the sales price or actual value of the admission, as provided in Section 212.04(1)(b), F.S., and is due at the moment of the transaction, except when the tax is collected for admission to an event at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility. Tax collected on such events is due to the Department on the first day of the month following the actual date of the event for which the admission is sold and becomes delinquent on the 21st day of that month. Therefore, tax collected on season and series tickets for events held in such facilities should be apportioned to each event in the season or series and remitted to the Department accordingly.~~

2. through 4. No change

(d) No change

(2) through (6) No change

Rulemaking Authority 212.04(4), 212.17(6), 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS, Sections 11 and 21 of Chapter 2021-2, L.O.F. History—New 10-7-68, Amended 1-7-70, 6-16-72, 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, 4-26-10, 1-12-11, 1-17-13, 1-19-15, 1-17-18.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-8 Tax Due at Time of Sale; Tax Returns and Regulations.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR

WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 11 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding statutory changes to collection allowances for mail order sales.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions Section 5 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 5 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-8 amends Rule 12A-1.056, F.A.C., by striking the collection allowance exception for mail order sales.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-8 ~~12A-1.056~~ Tax Due at Time of Sale; Tax Returns and Regulations.

- (1) No change
- (2) Collection allowance.
 - (a) No change
 - (b)1. The collection allowance ~~(except for dealers who make mail order sales, see subsection (5) of Rule 12A-1.103, F.A.C.)~~ is computed at the rate of 2.5 percent on the first \$1,200 of tax due. No collection allowance is authorized for tax collected in excess of \$1,200. The maximum amount of collection allowance authorized for any filing period for any electronic sales and use tax return is \$30.
 - 2. through 4. No change
 - (c) through (e) No change
 - (3) through (4) No change

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185,443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 681.117 FS, Section 11 of Chapter 2021-2, L.O.F. History—New 10-7-68, Amended 6-16-72, 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, 11-6-07, 9-15-08, 1-17-13, 5-9-13.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-9 Registration.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR

WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Sections 2, 5, 6, 8, and 12 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding registration requirements for marketplace providers, marketplace sellers, and remote sellers, which is dependent on whether or not the dealer has a physical nexus or an economic nexus.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Sections 2, 5, 6, 8, and 12 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Sections 2, 5, 6, 8, and 12 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-9 amends Rule 12A-1.060, F.A.C., by outlining registration requirements for marketplace providers and marketplace sellers with a physical nexus and the registration requirements for marketplace providers, marketplace sellers, and remote sellers with an economic nexus. This emergency rule incorporates, by reference, the informational form Florida Business Tax Application for Marketplace Providers and Remote Sales.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-9 ~~12A-1.060~~ Registration.

- (1) Persons required to register as dealers.
 - (a) No change
 - (b)1. For purposes of this rule, a “dealer” means a dealer, as defined in Section 212.06(2), F.S., as amended by Section 8, Chapter 2021-2, L.O.F. and a dealer who makes mail order sales, as provided in Section 212.0596, F.S.
 - 2. No change

(c) The term “dealer” includes a retailer who transacts a substantial number of remote sales or a marketplace provider that has a physical presence in Florida or that makes or facilitates through its marketplace a substantial number of remote sales.

(c) through (d) renumbered (d) through (e) No change

(2) No change

(3) Registration of marketplace providers and remote sellers.

(a) Marketplace providers and remote sellers, as defined in Rule 12AER21-13, must register with the Department electronically to collect and remit sales tax and discretionary sales surtax and obtain a separate certificate of registration for each marketplace and each place of business in Florida. A marketplace is deemed a separate place of business. A separate application is required for each place of business located within Florida. Out-of-state businesses can submit one application for all out-of-state locations.

(b) Electronic registration can be completed by going to floridarevenue.com/taxes/registration.

1. The following persons who have a physical presence in Florida must register using the Department’s electronic Florida Business Tax Application (Form DR-1, incorporated by reference in Rule 12AER21-12).

a. Marketplace providers.

b. Marketplace sellers who make sales outside of the marketplace.

2. The following persons who do not have a physical presence in Florida must register electronically using the Department’s electronic registration application for marketplace providers and marketplace sellers. The information required in this electronic application is provided in the Florida Business Tax Application for Marketplace Providers and Remote Sales (DR-1MP, effective 07/21, hereby incorporated by reference) and available on the Department’s website at https://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.asp. This form is provided for informational purposes only.

a. Marketplace providers who make or facilitate a substantial number of remote sales.

b. Marketplace sellers who make a substantial number of remote sales outside of the marketplace.

c. Remote sellers, as defined in Rule 12AER21-13.

Cross reference Rule 12AER21-13.

(3) renumbered (4) No change

(5) (4) Registration of exhibitors.

(a) For purposes of this rule, the following definitions are provided:

1. through 3. No change

4. A “retail sale” is as defined in Section 212.02(14), F.S., as amended by Section 2, Chapter 2021-2, L.O.F.

(b) Any exhibitor who displays tangible personal property or services at a convention or trade show is required to register as a dealer and collect and remit tax on sales of taxable property or services subject to Florida sales tax when:

1. No change

2. The written agreement authorizes an exhibitor to make remote ~~mail order~~ sales, pursuant to Section 5, Chapter 2021-2, L.O.F. ~~Section 212.0596, F.S.;~~ or

(c) No change

(5) renumbered (6) No change

Rulemaking Authority 212.12(2)(d), 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 119.071(5), 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(5), (6), 212.14(4), 212.16(1), (2), 212.18(3) FS, Sections 2, 5, 6, 8, and 12 of Chapter 2021-2, L.O.F. History—New 10-7-68, Amended 1-7-70, 6-16-72, 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03, 6-4-08, 9-1-09, 6-14-10, 6-28-10 (6), 6-28-10 (3), 7-28-15, 1-17-18, 3-25-20.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-10 Leases and Licenses of Real Property; Storage of Boats and Aircraft.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 11 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the removal of the sales tax bracket system.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 11 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 11 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-10 amends Rule 12A-1.070, F.A.C., by striking the obsolete reference to the sales tax bracket system.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

~~12AER21-10~~ ~~12A-1.070~~ Leases and Licenses of Real Property; Storage of Boats and Aircraft.

- (1) through (3) No change
- (4)(a) No change

(b) The tax shall be paid on all considerations due and payable by the tenant or other person actually occupying, using, or entitled to use any real property to his landlord or other person for the privilege of use, occupancy, or the right to use or occupy any real property for any purpose. ~~The amount of tax due must be calculated with the use of the applicable effective sales tax brackets.~~

- (c) through (g) No change
- (5) through (23) No change

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.02(10)(h), (i), (13), 212.03(6), 212.031 FS, Section 11 of Chapter 2021-2, L.O.F. History--New 10-7-68, Amended 2-8-69, 10-7-69, 6-16-72, 9-26-77, 10-18-78, 12-31-81, 7-20-82, Formerly 12A-1.70, Amended 1-2-89, 3-27-95, 7-17-95, 1-17-18, 1-8-19, 12-12-19.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:
12AER21-11 Use Tax.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 5, Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 5 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions Section 5 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-11 amends Rule 12A-1.091, F.A.C., by replacing the term "mail order sale" with "remote sale."

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical

Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-11 ~~12A-1.091~~ Use Tax.

- (1) through (13) No change
- (14)(a) through (c) No change

(d) Any person required to file and remit use tax on Form DR-15MO is not required to remit local option surtaxes on property purchased through a remote ~~in a mail order~~ sale.

- (15) No change

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.02(7), (20), (21), 212.05(1), 212.0596(7), 212.06(1), (2), (4), (7), (8), (11), 212.07(8), 212.183 FS, Sections 5 and 6 of Chapter 2021-2, L.O.F. History--New 10-7-68, Amended 1-7-70, 6-16-72, 11-6-85, Formerly 12A-1.91, Amended 7-7-92, 6-2-93, 11-16-93, 1-4-94, 5-18-94, 6-19-01.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:
12AER21-12 Public Use Forms.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Sections 5, 6, 8, 10, 11, and 12 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the replacement of the sales tax bracket system with a rounding algorithm and remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Sections 5, 6, 8, 10, 11, and 12 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions of Sections 5, 6, 8, 10, 11, and 12 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-12 amends Rule 12A-1.097, F.A.C., by incorporating five revised sales and use tax forms which are amended to reflect changes to the sales tax bracket system and mail order sales.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone 850-717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-12 ~~12A-1.097~~ Public Use Forms.

(1) No change

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application (http://www.flrules.org/Gateway/reference.asp?No=Ref 11781)	07/21 03/20
(b) (c)	No change	
(d) DR-1A	Application for Registered Businesses to Add a New Florida Location (http://www.flrules.org/Gateway/reference.asp?No=Ref 11782)	07/21 03/20
(e)	No change	
(3)	No change	
(4)(a)	No change	
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (http://www.flrules.org/Gateway/reference.asp?No=Ref 12310)	07/21 01/24
(c)	No change	
(5)(a)	No change	
(b) DR-15N	Instructions for DR-15 Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref 12311)	07/21 01/24
(c)	No change	
(d)		
(e) DR-15EZ N	Instructions for DR-15EZ Sales and Use Tax Returns (http://www.flrules.org/Gateway/reference.asp?No=Ref 12312)	07/21 01/24
(f)	No change	
(6) (24)	No change	

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, Section 26 of Chapter 2021-2, L.O.F. 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, Sections 5, 6, 8, 10, 11, and 12 of Chapter 2021-2, L.O.F. 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, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 4-17-03.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-13 Remote Sales; Marketplaces.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Sections 5, 6, 8, 10, and 12 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication, as well as the taxation of marketplaces.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Sections 5, 6, 8, 10, and 12 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions of Sections 5, 6, 8, 10, and 12 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-13 substantially rewords Rule 12A-1.103, F.A.C. The emergency rule changes the title of the rule from “Mail Order Sales.” to “Remote Sales; Marketplaces.” The revised rule provides definitions related to remote sales and marketplaces and outlines requirements of marketplace providers, marketplace sellers, and remote sellers with regards to registration, collection of tax, filing returns, and remitting tax.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

Substantial rewording of Rule 12A-1.103, F.A.C., follows.

12AER21-13 12A-1.103 Remote Mail Order Sales; Marketplaces.

(1) Definitions.

(a) A “marketplace” means any physical place or electronic medium through which tangible personal property is offered for sale.

(b) A “marketplace provider” means a person who facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace and who directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits all or part of the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

(c) A “marketplace seller” means a person who has an agreement with a marketplace provider that is a Florida dealer and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by the marketplace provider.

(d) A “remote sale” means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this paragraph, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(e) A “remote seller” means a person who makes a substantial number of remote sales outside of a marketplace. Marketplace providers and marketplace sellers who make a substantial number of remote sales outside of a marketplace are considered remote sellers.

(f) A “substantial number of remote sales” means any number of taxable remote sales in the previous calendar year in which the sum of the sales prices, as defined in s. 212.02(16), F.S., exceeded \$100,000.

(2) Marketplace providers and remote sellers required to collect and remit sales tax and discretionary sales surtax due on retail sales to persons in Florida must register with the Department electronically as provided in Rule 12AER21-9.

(3)(a) A marketplace provider must certify to its marketplace sellers that it will collect and remit any Florida sales tax, plus applicable discretionary sales surtax, due on retail sales made through the marketplace to persons in Florida.

This certification may be included in the agreement between a marketplace seller and a marketplace provider.

(b) A marketplace seller who makes sales outside a marketplace must collect and remit Florida sales tax, plus applicable discretionary sales surtax, on retail sales made outside the marketplace to persons in Florida if they made a substantial number of remote sales in the previous calendar year. When determining whether a marketplace seller made a substantial number of remote sales, only those sales made outside of the marketplace are included in the total amount of taxable remote sales.

(4)(a) The following dealers must timely file Florida sales and use tax returns and remit sales tax and discretionary sales surtax to the Department by electronic means.

1. A marketplace provider that is a dealer under Chapter 212, F.S., as amended by Chapter 2021-2, L.O.F.

2. A person who is required to collect and remit sales tax on remote sales.

(b) Returns and payments must be submitted to the Department by electronic means as provided in Rule 12AER21-8 and Rule Chapter 12-24, F.A.C.

Cross Reference: Rule 12AER21-15.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.02(14), (21), 212.05, 212.0596, 212.06(2), (5), 212.12(1), 212.18(3), 212.20(4), 215.26(2) FS, Sections 5, 6, 8, 10, and 12 of Chapter 2021-2, L.O.F. History—New 12-8-87, Amended 8-10-92, 4-17-03.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-14 Scope of Rules.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 4 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the replacement of the sales tax bracket system with a rounding algorithm.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 4 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most

expedient and appropriate means of notifying taxpayers of the provisions of Section 4 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-14 amends Rule 12A-15.001, F.A.C., by striking the obsolete reference to the sales tax bracket system cards and including the appropriate reference to the DR-15DSS, which contains the discretionary sales surtax rates for each county in Florida.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-14 ~~12A-15.001~~ Scope of Rules.

(1) For the purpose of administering the Discretionary Sales Surtax (referred to as the Surtax, or Tax), all rules relating to Sales and Use Tax (chapter 12A-1, F.A.C.) shall apply to the Surtax, except in those situations where rules relating to the Surtax have been issued to clarify specific statutory provisions.

(2) The list of counties levying the surtax is subject to frequent revision. An up-to-date listing of counties levying the surtax is available, without cost, by one or more of the following methods: 1) downloading Form DR-15DSS, Discretionary Sales Surtax information, updated annually, the appropriate Sales Tax Bracket Cards from the Department's website at www.floridarevenue.com/taxes/rates; or, 2) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; ~~or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.054(2), (4) FS, Section 4 of Chapter 2021-2, L.O.F. History—New 12-11-89, Amended 11-16-93, 11-1-05.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12AER21-15
 RULE TITLE: Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 26 of Chapter 2021-2, Laws of Florida,

authorizes the Department of Revenue to promulgate emergency rules to implement Sections 4, 5, 6, and 8 of Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication, as well as new provisions for the taxation of marketplaces.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Sections 4, 5, 6, and 8 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions of Sections 4, 5, 6, and 8 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12AER21-15 amends Rule 12A-15.003, F.A.C., by striking subsection (5) pursuant to statutory changes requiring dealers to collect discretionary sales surtax on remote sales in counties which impose a surtax.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-15 ~~12A-15.003~~ Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax.

(1) through (3) No change

(4) SALES OF TANGIBLE PERSONAL PROPERTY.

(a) A dealer who makes sales of tangible personal property, including tangible personal property sold through a marketplace or by remote sale, is required to collect surtax when the taxable item of tangible personal property is delivered within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the delivery occurs, whether the delivery is made directly by the dealer or by a manufacturer or wholesaler who delivers the property to the purchaser on behalf of the dealer. When the item of tangible personal property is delivered within a county not imposing a surtax, the dealer is not required to collect surtax.

1. through 3. No change

(b) through (c) No change

~~(5) MAIL ORDER SALES.~~

~~(a) A dealer who makes mail order sales, as defined in rule 12A-1.103, F.A.C., is required to collect surtax at the rate imposed by the surtax county where the taxable item of tangible personal property is delivered when:~~

~~1. The mail order is placed through a dealer's location within a surtax county and received by the dealer in another state; and;~~

~~2. The item is delivered to a location within a surtax county.~~

~~(b)1. Example: A multi state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail order division at the dealer's location in County A (a county imposing a 1% surtax). The out of state mail order division ships the merchandise to purchaser's residence in County B (a county not imposing a surtax). Although the company has stores within a surtax county and the order is placed through the dealer's location within a surtax county, the item is not delivered within a surtax county. The selling dealer is not required to collect surtax.~~

~~2. Example: A multi state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail order division at the dealer's location in County A (a county imposing a 1% surtax). The mail order division ships the item to a residence in County B (a county imposing a 1/2% surtax). The transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the merchandise at the rate of 6 1/2% (6% state tax and 1/2% surtax).~~

(6) though (9) No change; renumbered (5) through (8)

~~(9) (40) USE TAX.~~

(a) Any person who is not required to be a registered dealer but who owes use tax on tangible personal property purchased out-of-state, in another country, or through a remote sale mail order firms or the Internet is not required to pay surtax when paying the applicable use tax to the Department.

(b) through (e) No change

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.06(1), (2), (4), (6), (8), (10), 212.07(8), 212.18(3), 212.183 FS, Sections 4, 5, 6, and 8 of Chapter 2021-2, L.O.F. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01, 10-2-01, 4-17-03, 5-28-06.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:
 12AER21-16 Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR

WELFARE: Section 26, Chapter 2021-2, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement Section 5, Chapter 2021-2, Laws of Florida. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding remote sales, which replaces mail order sales in order to capture retail sales made by mail, telephone, the Internet, and other means of communication.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 5 of Chapter 2021-2, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions of Section 5 of Chapter 2021-2, Laws of Florida.

SUMMARY: Emergency Rule 12ER21-16 amends Rule 12A-15.008, F.A.C., by replacing the term "mail order firms or the Internet" with "remote sale."

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-16 ~~12A-15.008~~ Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax.

(1) LUMP SUM, COST PLUS, FIXED FEE, OR GUARANTEED PRICE CONTRACTS.

(a) No change

(b) A contractor or subcontractor who is not required to be a registered dealer and who owes use tax on taxable items of tangible personal property purchased out-of-state, in another country, or through a remote sale mail order firms or the Internet for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract is not required to pay surtax when paying the applicable use tax to the Department.

(c) No change

(2) through (4) No change

Rulemaking Authority 212.18(2), 213.06(1) FS, Section 26 of Chapter 2021-2, L.O.F. Law Implemented 212.02(4), (16), (20), 212.054, 212.055, 212.06(1), 212.14(5) FS, Section 5 of Chapter 2021-2, L.O.F. History—New 12-11-89, Amended 5-12-92, 8-10-92, 11-16-93, 3-20-96, 4-17-03.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 07/01/2021