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

(1) DUE DATES FOR PAYMENTS AND TAX RETURNS.

(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rules 12A-1.005, and 12A-1.070, F.A.C., and this rule, all taxes required under Chapter 212, F.S., to be collected or paid in any month, are due to the Department on the first day of the month following the date of sale or transaction. The payment and return must be delivered to the Department or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 212.11(1)(c) or (d), F.S., the tax is due the first day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

(c) Quarterly, semiannual, or annual filers that remit an excessive tax payment for the period July 1 through June 30 which represents a nonrecurring business activity can request to continue to file their returns quarterly, semiannual, or annually by submitting a written request to the Florida Department of Revenue, Account Management, P. O. Box 6480, Tallahassee, Florida 32314-6480. When a dealer makes a written request to continue on the same filing frequency, the Executive Director or the Executive Director's designee will determine whether the dealer's request is based on a nonrecurring business activity, based upon the facts of each case, using the following guidelines:

1. The type of activity. The type of activity, as opposed to the level of activity, that makes that dealer's remittance unusual for its particular business.

2. The focus of the dealer's business. A change in the dealer's business focus will not be considered nonrecurring business activity.

3. The number of occurrences. When the dealer's remittance amount continues to exceed the maximum amount allowed for a quarterly, semiannual, or annual filing frequency, the remittance will not be considered nonrecurring.

4. Regularity. If the events are so regular that the amounts exceeding the maximum remittance amounts allowed for a quarterly, semi-annual, or annual frequency can be predicted, the remittance will not be considered nonrecurring.

(d)1. If a dealer cannot reasonably compile the information required for an accurate return on a calendar month basis, the dealer may request to file returns and pay tax on an alternative-period basis. The dealer's request must be in writing and must be submitted to the Florida Department of Revenue, Return Reconciliation, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100. The written request must contain:

a. The name of the business;

b. The business mailing address;

c. The business partner number;

d. The dealer's certificate of registration number;

e. A detailed explanation why the dealer cannot reasonably file returns on a calendar month basis; and

f. The beginning and ending month and day of each requested alternative-reporting period for the current calendar year.

2. When the Department determines that the dealer cannot reasonably compile the information required for an accurate return on a calendar month basis, the Department will notify the dealer in writing that the dealer may report as an alternative-period filer. Alternative-period returns and payments are due on the first day after the end of the alternative-reporting period and become delinquent on the twenty-first day after the end of the alternative-reporting period.

3. Each year, dealers who have been authorized to file on an alternative-reporting basis must provide a calendar of alternative-reporting dates for the upcoming year. The dealer must provide the calendar by December 15, and the calendar must include all alternative-reporting periods for the following calendar year. The annual calendars may be submitted to the Department by any one of the following means:

a. E-mailing the calendar to conssut@dor.state.fl.us;

b. Faxing the calendar to Returns Reconciliation/Sales Tax Unit at (850) 410-2816;

c. Mailing the calendar to General Tax Administration, Returns Reconciliation/Sales and Use Tax Unit, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100.

(e) Any dealer who operates two or more places of business in a single county for which returns are required to be filed with the Department may file a single return using a county control reporting number for all places of business located within a single county in lieu of separate returns for each place of business. The dealer may also use this method to file returns in more than one county. A dealer who wishes to report the amounts collected within each county in a single return may obtain a county control reporting number for each county in which returns are required to be filed by submitting a written request to the Florida Department of Revenue, Return Reconciliation, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100. The written request must contain:

1. The name of the business;

2. The business mailing address;

3. Each county in which the dealer will be reporting using a county control reporting number; and

4. A list, by county, of each dealer's certificate of registration number.

(f) Any dealer who operates two or more places of business for which returns are required to be filed with the Department and maintains records for such places of business in a central office or place may file a consolidated return for all places of business in lieu of separate returns for each place of business. The consolidated return must clearly indicate the amounts collected within each county. An Application for Sales and Use Tax Consolidated Filing Number (Form DR-1CON, incorporated by reference in Rule 12A-1.097, F.A.C.) is provided for qualifying dealers who wish to file consolidated returns. The Department will issue a consolidated account number to qualified dealers.

(g) Each dealer is required to file a return for each tax reporting period even when no tax is due for that reporting period.

(h) The failure of any dealer to secure a tax return for reporting tax due does not relieve the dealer from the requirement to file a return or to remit tax due to the Department. The Department is not authorized to extend the time for any dealer to file any return or pay any tax due.

(i) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;

2. Any return for reporting taxes is required to be submitted by electronic means; or

3. No tax is due with a return for reporting taxes.

(2) COLLECTION ALLOWANCE.

(a) A collection allowance is authorized as compensation for the prescribed record keeping, accounting for, and for the timely reporting and remitting of sales and use tax and discretionary sales surtax by electronic means.

(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. Dealers reporting and remitting tax by electronic means on the following returns are entitled to the collection allowance only when the electronic return is timely submitted and the amount due on the return is timely paid by electronic means:

a. Form DR-15EZ, Sales and Use Tax Return;

b. Form DR-15, Sales and Use Tax Return; or,

c. Form DR-15CON, Consolidated Summary-Sales and Use Tax Return, and Form(s) DR-7, Consolidated Sales and Use Tax Return.

3. A collection allowance is not authorized for use tax reported on Form DR-15MO, Florida Tax on Purchases.

4. Forms DR-7, DR-15, DR-15CON, DR-15EZ, and DR-15MO are incorporated by reference in Rule 12A-1.097, F.A.C.

(c) Dealers operating more than one place of business and filing a consolidated tax return by electronic means, where the consolidated return provides the monthly business activity for each location, are allowed the collection allowance for each reporting and registered location. Dealers who report tax collected within each county by electronic means using a county-control number are entitled to the collection allowance based upon the total amount reported on the county-control reporting number.

(d) The collection allowance will not be allowed when:

1. The tax reported on an electronic return is not timely paid by electronic means or is delinquent at the time of payment;

2. The required tax return is not submitted by electronic means or is delinquent; or

3. The required electronic tax return filed is incomplete. An "incomplete return" is a return that lacks such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return, or determination of other taxes and fees reported on the return, may not be readily accomplished.

(e)1. Any dealer who files a timely return by electronic means and timely pays the amount due on the return by electronic means may elect to donate the amount of collection allowance that is allowed on that return to the Educational Enhancement Trust Fund. The revenues deposited into this trust fund will go to school districts that have adopted resolutions stating that the funds from this trust fund will be used to ensure that up-to-date technology is purchased for the classrooms in those districts and that teachers are trained in the use of the technology. Dealers who are located outside Florida or whose business is located in a county where the school district has not adopted the required resolution may also elect to donate the amount of collection allowance that is allowed on their return to the trust fund. Funds received from these dealers will be equally distributed to school districts that have adopted the required resolutions.

2. Dealers who elect to donate their collection allowance must make an election on each electronic original return that is timely filed with the Department. The electronic payment required with the return must include the amount of collection allowance to be donated and must be timely paid. Dealers making the election on their electronic return should not enter the amount of collection allowance on the return. Dealers who operate two or more places of business and file an electronic consolidated return, must make the election on the consolidated return (Form DR-15CON, Consolidated Summary-Sales and Use Tax Return) and should not enter the amount of collection allowance on the location returns (Form DR-7, Consolidated Sales and Use Tax Return). The amount of the collection allowance will not be transferred to the Educational Enhancement Trust Fund when a dealer makes an election to donate the amount of its allowed collection allowance but does not include that amount with its payment.

3. When a dealer files an electronic return and timely pays the amount due with the return by electronic means, the election to donate the amount of the collection allowance to the Educational Enhancement Trust Fund may not be rescinded for that return. Dealers are not permitted to file an amended return to make an election to donate the amount of the collection allowance to the trust fund when the election was not made on the original return as filed.

4. When a dealer elects to transfer the collection allowance to the Educational Enhancement Trust Fund, the amount transferred will be the amount remaining after resolution of any tax, interest, or penalty due.

(3) ESTIMATED TAX.

(a) Each dealer who paid sales and use tax for the preceding state fiscal year (July 1 through June 30) in an amount greater than $200,000 is required to remit estimated tax, as provided in Section 212.11(4), F.S. The methods to calculate the dealer's estimated tax liability are provided in Section 212.11(1)(a), F.S.

(b) Any dealer who files a consolidated return to report the business activity of multiple places of business must calculate the estimated tax under one of the methods provided in Section 212.11(1)(a), F.S., for each county or each reporting location, and use the same method to calculate the estimated tax liability on the consolidated return as a whole.

(c) The following are not required to be included in computing the estimated tax liability:

1. Any local option sales tax, such as the tourist development tax levied under authority of Section 125.0104, F.S.; the tourist impact tax levied under the authority of Section 125.0108, F.S.; the convention development tax levied under authority of Section 212.0305, F.S.; or the discretionary sales surtaxes levied under authority of Section 212.055, F.S.

2. The rental car surcharge levied under the authority of Section 212.0606, F.S.

3. Any solid waste fee, such as the new tire fee levied under the authority of Section 403.718, F.S., or the lead-acid battery fee levied under authority of Section 403.7185, F.S.

4. The motor vehicle warranty fee levied under the authority of Section 681.117, F.S.

5. The Miami-Dade County Lake Belt mitigation fee or water treatment plant upgrade fee imposed under Section 373.41492, F.S.

(d) A dealer engaged in the business of selling boats, motor vehicles, or aircraft that made at least one sale of a boat, motor vehicle, or aircraft with a sales price of $200,000 or greater in the previous state fiscal year may qualify for the payment of estimated tax pursuant to Section 212.11(4)(d), F.S. To qualify, such dealer must apply annually to the Department, using a Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes (Form DR-300400, incorporated by reference in Rule 12A-1.097, F.A.C.). The application must be delivered to the Department or be postmarked on or before October 1 of each year. The

Department will grant to all qualified dealers the authority to pay estimated tax pursuant to Section 212.11(4)(d), F.S., for the following calendar year.

(e) Penalties – Failure to Pay Estimated Tax.

1. Any person who fails to timely remit the amount of estimated tax due under Section 212.11(4), F.S., is subject to a specific penalty of 10 percent of any unpaid estimated tax.

2. Any dealer who files a consolidated tax return and fails to timely remit the amount of estimated tax due based on the consolidated return as a whole, without regard to each business location, is subject to the specific penalty of 10 percent of any unpaid estimated tax. The specific penalty will be calculated based on any unpaid estimated tax due for each reporting business location.

(4) PENALTIES AND INTEREST.

(a) The penalties and interest provided in this subsection apply to the following sales and use taxes, discretionary sales surtax, surcharges, or fees imposed by or administered under Chapter 212, F.S.:

1. Convention development tax;
2. Discretionary sales surtax;
3. Lead-acid battery fee;
4. Miami-Dade County Lake Belt mitigation fee or water treatment plant upgrade fee;
5. Motor vehicle warranty fee (lemon law fee);
6. Rental car surcharge;
7. Sales and use tax;
8. Tax on gross receipts on dry-cleaning;
9. Tax on perchloroethylene;
10. Tourist development tax;
11. Tourist impact tax; and
12. Waste tire fee.

(b) Failure to Timely File a Return. Any person who fails to timely file any return that is required to report any tax, surtax, surcharge, or fee imposed by or administered under Chapter 212, F.S., is subject to a specific penalty of 10 percent of the amount of tax, surtax, surcharge, or fee shown on the return. This specific penalty may not be less than $50 for each reporting business location.

(c) Failure to Timely Pay. Any person who fails to timely pay any tax, surtax, surcharge, or fee imposed by or administered under Chapter 212, F.S., shown due on a return is subject to a specific penalty of 10 percent of the amount of the tax, surtax, surcharge, or fee shown due on the return. This specific penalty may not be less than $50 for each reporting business location.

(d) Failure to Timely File a Return and to Timely Pay. Any person who files a required return with the Department, but fails to file such return on or before the due date, and fails to timely pay the tax, surtax, surcharge, or fee shown due on the return, is subject to only one specific penalty of 10 percent of the tax, surtax, surcharge, or fee shown due on the return. This specific penalty may not be less than $50 for each reporting business location.

(e) Consolidated Returns and Reporting by County-Control Numbers. The specific penalty for failure to timely file a tax, surtax, surcharge, or fee return, or for failure to timely pay the tax, surcharge, surtax, or fee shown due on a return, is calculated based on each reporting business location. The $50 minimum applies to each reporting business location.

(f) Failure to Disclose. Any person required to make a return or to pay any tax, surtax, surcharge, or fee imposed by or administered under Chapter 212, F.S., who fails to disclose the tax, surtax, surcharge, or fee on a return, is subject to a specific penalty in the amount of 10 percent of the unpaid tax, surtax, surcharge, or fee for each 30 days, or fraction thereof, while the failure to disclose the tax, surtax, surcharge, or fee due continues. This specific penalty may not exceed a total of 50 percent of any such unpaid tax, surtax, surcharge, or fee.

(g) Interest shall accrue on any delinquent tax, surtax, surcharge, or fee imposed by or administered under Chapter 212, F.S., at the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily). Interest accrues on the amount due from the date of delinquency until the date on which the tax is paid.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. 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.

History–Revised 10-7-68, 6-16-72, Amended 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.