

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) It is the specific legislative intent that each and every sale, admission, use, storage, consumption, or rental is taxable, unless such sale, admission, use, storage, consumption, or rental is specifically exempt. The exempt nature of the transaction must be established by the selling dealer. Unless the selling dealer shall have taken from the purchaser the required documentation as provided in subsections (3), (4) or (5) of this rule, the sale shall be deemed to be taxable. Subsection (3) of this rule governs sales made to exempt entities (other than governmental units) that hold a Consumer's Certificate of Exemption. Subsection (4) of this rule governs sales made directly to governmental units. Subsection (5) of this rule governs sales exempt based on the use of the property or services.

(2) How to obtain a consumer's certificate of exemption.

(a)1. Any organization determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, any state, county, municipality, or other political subdivision of a state, qualifying for the exemption provided in Section 212.08(6), F.S., any state chartered credit union qualifying for exemption under Section 213.12(2), F.S., and any other organization qualifying for exemption under Section 212.08(7), F.S., desiring to qualify for these exemptions must obtain a Consumer's Certificate of Exemption. Any limited liability company determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, must obtain a separate Consumer's Certificate of Exemption, even though its parent corporation may currently hold a Consumer's Certificate of Exemption. The United States Government or any of its federal agencies is not required to obtain a Consumer's Certificate of Exemption.

2. To obtain a Consumer's Certificate of Exemption, the organization must file an Application for a Consumer's Certificate of Exemption (Form DR-5, incorporated by reference in Rule 12A-1.097, F.A.C.) and documentation sufficient to substantiate the applicant's claim for exemption with the Department. The Department will issue a Consumer's Certificate of Exemption (Form DR-14) to each applicant qualifying for exemption under Section 212.08(6) or (7) or 213.12(2), F.S.

(b) A Consumer's Certificate of Exemption will be valid from its "Issue Date" through its "Expiration Date," as indicated on the certificate (Form DR-14). Any dealer selling taxable property, services, or admissions to an exempt entity prior to the date of issue, or after the date of expiration, indicated on the exempt entity's Consumer's Certificate of Exemption, is required to collect tax. An entity whose Consumer's Certificate of Exemption has been revoked by the Department is prohibited from extending a copy of its certificate to purchase taxable property, services, or admissions exempt from tax. However, a selling dealer who accepts in good faith a copy of a Consumer's Certificate of Exemption that appears valid and current on its face will not be liable for any applicable tax due on sales to the entity or subject to other punitive actions.

(3) Sales made to exempt entities other than governmental units.

(a) An entity that holds a valid Consumer's Certificate of Exemption (Form DR-14) issued by the Florida Department of Revenue may extend a copy of its certificate to the selling dealer to purchase or rent taxable property, admissions, or services used for its authorized tax-exempt purpose in lieu of paying sales tax. Purchases of property, admissions, or services used for the entity's authorized tax-exempt purposes must be made with the purchasing entity's funds and may not be made with personal funds of the purchasing entity's authorized representative. When the payment for taxable property, admissions, or services is made with an authorized representative's personal funds, the purchase is subject to tax, even if the representative is subsequently reimbursed with the entity's funds.

(b) To make purchases or rentals for the purposes of resale, the entity must be registered as a sales tax dealer and issue the selling dealer an Annual Resale Certificate (Form DR-13), as provided in Rule 12A-1.039, F.A.C.

(c) It is the exempt entity's responsibility to determine whether the purchase or rental will be used for its authorized tax-exempt purpose or for the purposes of resale and to provide the proper documentation to the selling dealer. In lieu of obtaining a copy of the entity's valid Consumer's Certificate of Exemption, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the entity. A selling dealer who accepts in good faith a copy of an entity's valid Consumer's Certificate of Exemption or Annual Resale Certificate, or a Transaction Authorization Number or Vendor Authorization Number issued by the Department will not be held liable for any tax due on sales made to the entity during the effective dates indicated on the certificate or the effective dates of the authorization number. The selling dealer must maintain the required authorization numbers and certificates in its books and records for the time period provided in subsection (6) of this rule.

(d) An exemption certificate granted by any other state, District of Columbia, or territory of the United States to the selling

dealer is not sufficient to make tax-exempt purchases or rentals in Florida. The fact that an entity holds an exemption from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, is not sufficient to make tax exempt purchases or rentals in Florida.

(e) An entity holding a valid Consumer's Certificate of Exemption may not extend a copy of its certificate to a contractor to be applied to contracts for the construction or improvement of real property. See Rule 12A-1.094, F.A.C., for guidance on direct purchases by governmental entities of construction materials in real property projects.

(f) The validity of a Florida Consumer's Certificate of Exemption may be verified by using the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html>, by using the Department's FL Tax mobile application, or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(g)1. Transaction authorization number issued prior to or at the point-of-sale – valid for a single transaction only. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption for each sale, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number prior to or at the point-of-sale by using the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html>, by using the Department's FL Tax mobile application, or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. When using the Department's on-line Certificate Verification System, the dealer may key up to five Florida Consumer's Certificate of Exemption numbers into the system. When using the Department's FL Tax mobile application or the Department's automated nationwide toll-free verification system, the selling dealer is prompted to key in a single Florida Consumer's Certificate of Exemption number. Each verification system will issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Florida Consumer's Certificate of Exemption. Selling dealers using the automated telephone verification system who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 5:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

3. The selling dealer must document the transaction authorization number on the sales invoice, purchase order, or other document that is prepared by the purchaser or the selling dealer to document the tax exempt purchase by the exempt entity.

4. A transaction authorization number is valid for a single sales transaction and is not valid to properly document subsequent sales made to the same entity. The selling dealer must obtain a new vendor authorization number for subsequent tax exempt transactions.

(h)1. Vendor authorization number for regular customers – valid for calendar year issue. In lieu of obtaining a copy of the exempt entity's valid Florida Consumer's Certificate of Exemption or a Transaction Authorization Number from the Department for each sale to the entity, the selling dealer may obtain a Vendor Authorization Number for that entity. This option is available to selling dealers throughout the calendar year without limitation. The selling dealer must maintain a copy of the exempt entity's Florida Consumer's Certificate of Exemption in its books and records.

2. The "vendor authorization number" is a customer-specific authorization number that will be valid for all sales made to an exempt entity during the calendar year.

3. To obtain vendor authorization numbers, the selling dealer may use the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html> or send a written request to the Department. Dealers obtaining authorization numbers by submitting a written request to the Department may obtain the electronic format for sending the customer data from the Department's web site at www.myflorida.com/dor or call the Department at (850)488-3516 to obtain the electronic format.

a. The written request should be forwarded to the Florida Department of Revenue, Account Management MS #1-5730, Florida Department of Revenue, 5050 W Tennessee Street, Tallahassee, Florida 32399-0160, along with an electronic file containing a list of the dealer's regular customers for which the dealer has a Florida Consumer's Certificate of Exemption number on file. In response to the request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor authorization number for each exempt entity who is a holder of a valid Florida Consumer's Certificate of Exemption.

b. The Department's on-line Certificate Verification System allows the user to verify up to five Florida Consumer's Certificate numbers and to obtain a transaction authorization number for single sales made to each exempt entity at once. The system also allows the user to upload a batch file of up to 50,000 accounts for verification of a Florida Consumer's Certificate of Exemption and,

24 hours later, retrieve the file containing the vendor authorization numbers for all sales made to an exempt entity during the calendar year.

4. The selling dealer may make tax-exempt sales to the exempt entity during the period in which the vendor authorization number for that entity is valid. Vendor authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor authorization numbers issued by the Department in November or December are valid for the remainder of that calendar year and the next calendar year.

(4) Sales made directly to governmental units.

(a) Any state, or any county, municipality, or political subdivision of a state that holds a valid Consumer's Certificate of Exemption (Form DR-14) issued by the Florida Department of Revenue may issue a copy of its certificate to the selling dealer to purchase or rent taxable items or services tax-exempt in lieu of paying sales tax. The United States Government is not required to hold a Consumer's Certificate of Exemption to make tax-exempt purchases and rentals.

(b) Payment for tax-exempt purchases or rentals of property or services must be made directly to the selling dealer by the governmental unit of a state, or any county, municipality, or political subdivision of a state. Payments made with an authorized P-Card are considered to be made directly by the governmental unit. When the payment for taxable property or services is made with the personal funds of an authorized representative of the governmental unit, the purchase is subject to tax, even if the representative is subsequently reimbursed with the governmental unit's funds. The authorized representative of any state, county, municipality, or political subdivision of a state, must choose one of the following methods to make tax-exempt purchases or rentals:

1. Use an authorized Purchasing or Procurement Card ("P-Card") which indicates on its face that it is a Florida government purchasing card for official business only. Information printed on the front of the card will include the agency's name, the agency's Consumer's Certificate of Exemption number, the account number, the name of the cardholder (employee), and the expiration date. The selling dealer who accepts the "P-Card" should retain a copy of the face of the "P-Card" to note the Consumer's Certificate of Exemption number, account number, and cardholder name for its books and records to properly document the exempt sale. When the selling dealer cannot copy the "P-Card," the dealer must retain the Consumer's Certificate of Exemption number, the account number, cardholder's name, and the expiration date of the "P-Card."

2. Issue a certificate containing the governmental unit's name, address, the Consumer's Certificate of Exemption number, the effective date and expiration date of the Consumer's Certificate of Exemption, and the signature of an authorized representative of the governmental unit. The following is a suggested format of the certificate:

EMPLOYER'S AUTHORIZATION TO MAKE
PURCHASES ON BEHALF OF AN EXEMPT GOVERNMENTAL UNIT

DATE

TO: _____
SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

I, the undersigned, am a representative of the exempt governmental unit identified below. The purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations made on or after _____ (DATE[S]) from the business identified above is for use by the exempt governmental unit identified below.

The charges for the purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations from the dealer identified above will be billed to and paid directly by the exempt governmental unit.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

AUTHORIZED SIGNATURE ON BEHALF OF EXEMPT GOVERNMENTAL UNIT

NAME OF EXEMPT GOVERNMENTAL UNIT

ADDRESS OF EXEMPT GOVERNMENTAL UNIT

CONSUMER'S CERTIFICATE OF EXEMPTION NUMBER

THIS CERTIFICATE MAY NOT BE USED TO MAKE PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL REPRESENTING THE EXEMPT ENTITY IDENTIFIED ABOVE.

(c) The purchase or rental of property or services by employees authorized on behalf of a federal agency is exempt, even though the employee is subsequently reimbursed by the federal agency. The following is a suggested certificate format to be issued by federal employees to the selling dealer to make tax-exempt purchases or rentals:

EXEMPTION CERTIFICATE
TO BE USED BY FEDERAL EMPLOYEES

DATE

SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

I, the undersigned am an employee of the federal agency identified below. The purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations on or after _____ (DATE[S]) from the business identified above is in pursuit of my employer's affairs. The Government of the United States either will pay the seller directly or will provide reimbursement to the employee for the actual cost of the purchase or lease of tangible personal property, services, or living quarters or sleeping accommodations made on this date(s).

Under penalties of perjury, I declare that I have read the foregoing and the facts stated in it are true.

SIGNATURE OF EMPLOYEE

NAME OF FEDERAL AGENCY

ADDRESS OF FEDERAL AGENCY

THIS CERTIFICATE MAY NOT BE USED TO MAKE EXEMPT PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL EMPLOYED BY A UNITED STATES GOVERNMENTAL AGENCY. PROPER IDENTIFICATION IS REQUIRED BEFORE THIS CERTIFICATE MAY BE ACCEPTED BY THE SELLER.

(d) To make purchases or rentals for the purpose of resale, the state, county, municipality, or political subdivision of a state must be registered as a sales tax dealer and extend to the selling dealer a copy of its Annual Resale Certificate (Form DR-13), as provided in Rule 12A-1.039, F.A.C.

(e) It is the responsibility of the authorized representative of any state, county, municipality, or political subdivision of the state to determine whether the purchase is for use by the governmental unit or for the purpose of resale and to provide the documentation required in this subsection to the selling dealer. A selling dealer who accepts in good faith the required documentation or an Annual Resale Certificate will not be held liable for any tax due on sales made to the governmental unit during the effective time period indicated on the certificate obtained from the purchaser. The selling dealer must maintain the required documentation in its books and records for the time period provided in subsection (6) of this rule.

(5) Sales exempt based on the use of the property or services.

(a)1. The provisions of this subsection apply only to persons (other than the United States Government or any federal agency) who do not hold a Consumer's Certificate of Exemption (Form DR-14) that purchase, lease, license, or rent tangible personal property or purchase services exempt from tax imposed under Chapter 212, F.S., based on the use of the property or service.

2. The provisions of this subsection do not apply to exemption affidavits required under the provisions of Chapter 212, F.S., and Rule Chapter 12A-1, F.A.C.; suggested certificates provided in other rule sections in Rule Chapter 12A-1, F.A.C.; or suggested

certificates provided in Taxpayer Information Publications issued by the Department. The provisions of Chapter 212, F.S., Rule Chapter 12A-1, F.A.C., and Taxpayer Information Publications are available on the Department's Tax Law Library provided to the public on its Internet site at www.myflorida.com/dor. Dealers are required to maintain the exemption affidavits and exemption certificates, as well as the certificates and documentation required in this rule section, in their books and records for the time periods provided in subsection (6) of this rule.

3. The provisions of this subsection do not apply to the tax-exempt sale of utilities that are used by the purchaser for residential household purposes. Guidelines regarding the sale of utilities are provided in Rules 12A-1.053 and 12A-1.059, F.A.C.

4. The provisions of this subsection do not apply to purchases or rentals that are for resale. A person who desires to make purchases or rentals for resale must comply with the provisions of Rule 12A-1.039, F.A.C.

(b) Any person who is purchasing, renting, leasing, or licensing tangible personal property or services that qualify for an exemption from tax imposed under Chapter 212, F.S., based on the use of the property or service, must extend an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name, address, the reason for which the use of the property or service qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser. The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records for the time period provided in subsection (6) of this rule.

(c) Selling dealers may contact the Department at 1(800) 352-3671 to verify the specific exemption specified by the purchaser. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800) 955-8770 (Voice) and 1(800) 955-8771 (TTY).

(d)1. The following is a suggested format of an exemption certificate to be issued by a purchaser who does not hold a Consumer's Certificate of Exemption, but who claims that the purchase, rental, lease, or license of the property, or the purchase of the services is for an exempt purpose. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

**EXEMPTION CERTIFICATE
FOR EXEMPTIONS BASED ON THE PROPERTY'S USE**

This is to certify that the tangible personal property purchased, leased, licensed, or rented, or services purchased, on or after _____ (date) from _____ (Selling Dealer's Business Name) is purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

Materials, containers, labels, sacks, bags, or similar items intended to accompany a product for sale at other than retail, as provided in Section 212.02(14)(c), F.S., by persons who are not required to be registered under Section 212.18(3), F.S.

Incorporation into items of tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use, as provided in Rule 12A-1.043, F.A.C.

Printing of a publication exempt under the provisions of Section 212.08(7)(w), F.S.

Items, such as paper and ink, that will be incorporated into and become a component part of a publication exempt under the provisions of Section 212.08(7)(w), F.S.

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys, purchased by child care facilities outlined in Section 402.305, F.S., that hold a current license under Section 402.308, F.S., hold a current Gold Seal Quality Care designation as provided in Section 402.281, F.S., and provide all employees with basic health insurance as defined in Section 627.6699(12), F.S., as provided in Section 212.08(5)(m), F.S.

Motor vehicle rented or leased by a dealer who will provide the motor vehicle at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the dealer, as provided in Section 212.0601(4), F.S.

Other (include description and statutory citation): _____

I understand that if I use the property or service for any nonexempt purpose, I must pay tax on the purchase or lease price of the taxable property or service directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling 1(800) 352-3671.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Representative _____

Sales and Use Tax Certificate of Registration No. (if applicable) _____

By _____

(Signature of Purchaser or Authorized Representative)

Title _____

(Title – only if purchased by an authorized representative of a business entity)

Date _____

2. As provided in subparagraph (a)2. of this subsection, there are other suggested formats for exemption certificates based on the use of the property or services that are provided in other sections of Rule Chapter 12A-1, F.A.C., and in Taxpayer Information Publications (TIPs) issued by the Department. The following is a list of these suggested formats of exemption and the applicable rule section or TIP number that suggests the exemption certificate format. This list is not intended to be an exhaustive list:

- a. Printed Materials to be Mailed Partly Outside Florida. See Rule 12A-1.027, F.A.C.
- b. Printed Materials Purchased by a Nonresident Dealer. See Rule 12A-1.027, F.A.C.
- c. Purchases of Film and Other Printing Supplies. See Rule 12A-1.027, F.A.C.
- d. Boiler Fuels Used to produce Tangible Personal Property for Sale. See Rule 12A-1.059, F.A.C.
- e. Export of Tangible Personal Property Irrevocably Committed to the Exportation Process Outside Florida. Rule 12A-1.0015, F.A.C., provides the documentation required to establish that tangible personal property has been committed to the exportation process.
- f. Real Property Used or Occupied for Space Flight Business Purposes. See Rule 12A-1.070, F.A.C.
- g. Items Sold to Advertising Agencies. See Rule 12A-1.072, F.A.C.
- h. Items for Agricultural Use or for Agricultural Purposes and Certain Farm Equipment. Rule 12A-1.087, F.A.C.
- i. Items Sold or Leased; or Real Property Licensed or Leased to Motion Picture Educational Entities. See TIP 99A01-32, dated August 31, 1999.
- j. "Qualifying Property" and/or "Overhead Materials" Sold to or Purchased by Government Contractors. See TIP 99A01-21, dated July 2, 1999.
- k. People Mover Systems and Parts. See Rule 12A-1.094, F.A.C.
- l. Railroad Roadway Materials. See TIP 00A01-19, dated July 11, 2000.

(6) Records required. Selling dealers must maintain exemption affidavits, exemption certificates, copies of Consumer's Certificates of Exemption, Transaction Authorization Numbers, Vendor Authorization Numbers, and other documentation required under the provisions of this rule, other rule sections of Rule Chapter 12A-1, F.A.C., or suggested in Taxpayer Information Publications, until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Electronic storage by the selling dealer of the required affidavits, certificates, or other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), 212.07(1), 212.08(6), (7), 212.085, 212.18(2), (3), 212.21(2) FS. History—New 10-7-68, Amended 6-16-72, 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 7-31-03, 6-28-04, 11-6-07, 9-1-09, 5-9-13, 2-17-15.