

**CHAPTER 12-6**  
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**PART I ADMINISTRATIVE ISSUES**

**12-6.001 Application of Rules.**

(1) The rules set forth in this chapter are applicable to all revenues assessed and collected by the Department pursuant to Section 213.05, F.S.

(2)(a) The Department of Revenue encourages taxpayers to attempt to resolve any notice, billing, assessment, or refund denial through discussions with the Department, whether in person, in writing, or by telephone, prior to initiating the informal protest procedures contained in this chapter. This will allow the Department and the taxpayer to address possible miscommunication, misunderstanding, or Department or taxpayer error.

(b) Notices issued by the Department pursuant to this rule chapter will be sent to the taxpayer, unless the taxpayer submits a completed Power of Attorney and Declaration of Representative (Form DR-835, incorporated by reference in Rule 12-6.0015, F.A.C.) which instructs the Department as to whom the taxpayer wants these notices to be sent. A notice is issued when the notice is created and dated. Notices will be sent to the taxpayer or authorized representative by United States Postal Service to the last known mailing address of the taxpayer or authorized representative. Notices of Proposed Assessment and Notices of Proposed Refund Denial may also be sent by email or fax to the last known email address or fax number with the affirmative consent of the taxpayer or authorized representative.

(c)1. If this chapter provides for a specific number of consecutive calendar days within which a taxpayer or the Department must act, the expiration of such period will not occur on a Saturday, Sunday, or legal holiday. For purposes of this chapter, the term "legal holiday" shall mean a holiday that is observed by state agencies as a legal holiday as this term is defined in Section 110.117, F.S. Instead, such specific number of consecutive calendar days will expire on the next successive day that is not a Saturday, Sunday, or legal holiday.

2. For the purposes of this chapter, "postmark date" shall include the date on which a taxpayer delivers a document discussed in these rules to an express service or delivery service for delivery to the Department.

(d) This chapter does not apply to the formal proceedings governed by Sections 120.569 and 120.57, F.S.

(3)(a) For the purposes of the extensions of time authorized in Rules 12-6.002, 12-6.003, 12-6.0033, 12-6.030 and 12-6.032, F.A.C., a taxpayer's request for an extension will be granted, unless the Department determines that the request should be denied. A request for an extension will be denied when it is apparent from the best information available to the Department that: the taxpayer does not intend to comply with the requirements of the rule; or, the taxpayer intends to delay the procedures established by the rule; or, there is significant endangerment to the revenues involved in the protest. The Department will notify the taxpayer in writing of such determination, and such notification will grant the taxpayer 10 consecutive calendar days to comply with the rule's

requirements.

(b) For the purposes of any joint agreement to extend the time to conduct a conference authorized in Rule 12-6.0023 or 12-6.030, F.A.C., a taxpayer's request to schedule the conference after the 40-day period will be granted, unless the Department determines that the request should be denied. A request will be denied when it is apparent from the best information available to the Department that: the taxpayer does not intend to comply with the requirements of the rule; or, the taxpayer intends to delay the procedures established by the rule; or, there is significant endangerment to the revenues involved in the protest. The Department will notify the taxpayer in writing of such determination, and such notification will grant the taxpayer 10 consecutive calendar days to comply with the rule's requirements.

*Rulemaking Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.0537, 213.21(1) FS. History--New 10-8-81, Formerly 12-6.01, Amended 3-6-03, 1-1-23.*

### **12-6.0015 Public Use Forms.**

The following form is employed by the Department in its dealings with the public. This form is hereby incorporated by reference in this rule. Copies of this form are available, without cost, by: 1) downloading the form from the Department's website at [floridarevenue.com/forms](http://floridarevenue.com/forms); or, 2) calling the Department at (850)488-6800, Monday through Friday (excluding holidays); or, 3) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 711, 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

Form Number	Title	Effective Date
DR-835	Power of Attorney and Declaration of Representative (R. 10/11) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-00810">http://www.flrules.org/Gateway/reference.asp?No=Ref-00810</a>	01/12

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 119.071(5), 213.21(1) FS. History--New 3-6-03, Amended 4-5-07, 1-27-09, 6-28-10, 1-25-12, 12-29-25.*

## **PART II PROTEST OF PROPOSED ASSESSMENTS**

### **12-6.002 Conference Procedures for Notices of Intent to Make Audit Changes.**

(1)(a) Except in cases of jeopardy assessments, estimated assessments, refund denials, or where review of the taxpayer's books and records results in no liability due to the state or no refundable amount due to the taxpayer, the Department will, upon completion of an audit, issue a Notice of Intent to Make Audit Changes. The taxpayer shall have 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes to mail or fax a written request for a conference to the office address or fax number on the Notice.

(b) If the Department issues a Revised Notice of Intent to Make Audit Changes, the taxpayer shall have 30 consecutive calendar days after the date of issuance on each Revised Notice of Intent to Make Audit Changes to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a conference should be made directly to the office designated on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 90 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, unless specifically agreed to in writing by the Department.

(4) If a request for a conference is not timely made, the right to seek a conference is waived. Failure to request a conference will not preclude instituting the protest procedures provided in Rule 12-6.003, F.A.C.

(5) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved at the local level, to expedite ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule may be waived by the taxpayer.

(6) A Notice of Proposed Assessment will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to this section; or

(b) The taxpayer has not timely filed a written request for a conference; or

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21(1) FS. History—New 10-8-81, Amended 12-31-81, Formerly 12-6.02, Amended 8-10-92, 3-6-03.*

#### **12-6.0023 Conference Procedures for Delinquency Notices or Billings.**

(1)(a) After issuance of a delinquency notice or billing by the Department, the taxpayer may request a conference if an assessment has not been issued. A request for a conference shall be made by mailing, telephoning, or faxing the request directly to the address, telephone number, or fax number of the office designated on the delinquency notice or billing within 20 consecutive calendar days of the date of issuance on the delinquency notice or billing. In order for the taxpayer's request to be considered timely, the request must be postmarked, telephoned, or faxed within 20 consecutive calendar days from the date of issuance on the delinquency notice or billing.

(b) Requests postmarked, telephoned, or faxed more than 20 consecutive calendar days after the date of issuance on the delinquency notice or billing will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference pursuant to subsection (1) if the request for an extension is received by the office designated on the delinquency notice or billing prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the delinquency notice or billing for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail, telephone, or fax a request for a conference within the 30 consecutive calendar day extension period, or failure to contact the Department, or failure to request an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on the delinquency notice or billing, unless specifically agreed to in writing by the Department.

(4) If an agreement is not reached as a result of the conference, or if no request is made for a conference, or if a request is not timely made for a conference, an assessment will be issued, and the taxpayer may file a protest under the procedures provided in Rule 12-6.0033, F.A.C.

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1) FS. History—New 7-1-88, Amended 8-10-92, 3-6-03.*

#### **12-6.003 Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit.**

(1)(a) A taxpayer may secure review of a Notice of Proposed Assessment by implementing the provisions of this section.

(b) To secure review of a Notice of Proposed Assessment, a taxpayer must file a written protest postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the notice is addressed to a person outside the United States) from the

date of issuance on the notice.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days if the Notice of Proposed Assessment is addressed to a person outside the United States) after the date of issuance on the notice will be deemed late filed, and the proposed assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days if the notice is addressed to a person outside the United States) after the date of issuance on the notice, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the Notice of Proposed Assessment. To be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the notice is addressed to a person outside the United States) from the date of issuance on the notice. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the notice for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period will result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest must be mailed or faxed to the address or fax number designated on the Notice of Proposed Assessment and include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and audit number.
2. The tax type, the periods, and the dollar amount of tax, interest, or penalty protested.
3. A list of the unagreed items.
4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items.
5. A statement explaining the law or other authority on which the taxpayer's position is based.
6. A copy of the Notice of Proposed Assessment.
7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing at the address or fax number listed on the written notification for an additional 15 consecutive calendar days within which to submit this required information. Within the 15 consecutive calendar day extension period, the taxpayer may submit a request in writing for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period will result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., on the later of:

- a. The date a 15 consecutive calendar day period expires pursuant to this rule; or
- b. The expiration of 60 consecutive calendar days after the date of issuance on the Notice of Proposed Assessment.

(3)(a) Upon receipt of a complete, timely filed written protest, Informal Dispute Resolution will review the protest and may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed, Informal Dispute Resolution will issue a Notice of Decision (NOD). The NOD shall become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOD, unless the taxpayer timely files a petition for reconsideration of the NOD.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the NOD to file a petition for

reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number stated on the NOD, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Informal Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Informal Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Informal Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period will result in issuance of a Notice of Reconsideration (NOR) that dismisses the petition for reconsideration and sustains the NOD. The NOR will become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(c) If a petition for reconsideration is timely filed, the Department will issue a Notice of Reconsideration (NOR). The NOR will become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

*Rulemaking Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1) FS. History—New 12-31-81, Formerly 12-6.03, Amended 7-1-88, 3-6-03, 1-19-15, 2-20-25.*

#### **12-6.0033 Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings.**

(1)(a) A taxpayer may secure review of an assessment issued by the Department regarding tax returns, other required filings, and billings by implementing the provisions of this section. When a taxpayer has pursued review under the provisions of either Rule 12-6.002 or 12-6.003, F.A.C., or both, or has failed to comply with the time limitations or has exhausted the review rights in those rules, the taxpayer shall not have the right to pursue review under this section. The assessment procedure under this rule and review of such assessments regarding tax returns, other required filings, and departmental billings shall not preclude an audit of taxpayer books and records, and shall not preclude audit assessments or other assessments for tax deficiency.

(b) To secure review of an assessment regarding tax returns, other required filings, and billings a taxpayer must file a written protest postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) from the date of issuance on the assessment.

(c) Protests postmarked or faxed more than 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) after the date of issuance on the assessment will be deemed late filed, and the assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) after the date of issuance on the assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days if the assessment is addressed to a person outside the United States) from the date of issuance on the assessment. Each extension of time will be for 15 consecutive calendar days. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the assessment for an additional 15 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 20 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and account number or audit number

(where appropriate);

2. The tax type, the periods, and dollar amount of tax, interest, or penalty protested;
3. A list of the unagreed items;
4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items;
5. A statement explaining the law or other authority on which the taxpayer's position is based;
6. A copy of the assessment;
7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the office issuing the assessment that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the assessment shall become a final assessment for purposes of Chapter 72, F.S., on the later of:

- a. The date a 15-consecutive calendar day period expires pursuant to this rule; or
- b. The expiration of 20 consecutive calendar days after the date of issuance on the assessment.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the office that issued the assessment will review the protest and initiate an attempt to resolve the issues. The office that issued the assessment may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law.

2. If a resolution is not achieved, the protest will be forwarded to Informal Dispute Resolution. Informal Dispute Resolution will review the protest and may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a Notice of Reconsideration (NOR) shall be issued. The assessment will become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(4) If at any time jeopardy conditions exist, the Department may initiate enforcement action under the Department's jeopardy procedures to enforce an assessment.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

*Rulemaking Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1) FS. History--New 7-1-88, Amended 8-10-92, 3-6-03.*

#### **12-6.005 Criteria for Qualified Representatives.**

(1)(a) Any person who appears before the Department in any proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives. For the purposes of this rule, "counsel" shall mean a member of the Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar.

(b) A Certified Public Accountant holding a license to practice in Florida shall be deemed a qualified representative for purposes of this rule.

(c) Other qualified representatives of taxpayers include: general partners of a general or limited partnership, officers of a corporation, or an authorized regular employee of an individual, partnership or corporation who has actual knowledge of the

controversy.

(2) Any individual qualified as a representative under this rule shall file a Power of Attorney and Declaration of Representative signed under penalty of perjury by the qualified representative and by the party being represented. The form is the Power of Attorney and Declaration of Representative (Form DR-835), adopted and incorporated by reference in Rule 12-6.0015, F.A.C.

(3) Other individuals chosen by a taxpayer to represent the taxpayer may be qualified to appear before the Department, the Executive Director, or the Executive Director's designees if the presiding officer of the proceeding is satisfied as to the qualifications of the individual seeking to qualify as a representative. In determining qualification to represent, the presiding officer shall satisfy himself or herself by reference to the provisions in the Uniform Rules of Procedure, Rule 28-106.106, F.A.C. (Who May Appear; Criteria for Other Qualified Representatives).

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 213.053(3), 213.21(1) FS. History—New 5-27-82, Formerly 12-6.05, Amended 3-6-03.*

#### **12-6.006 Standards of Conduct for Qualified Representatives.**

In all proceedings before the Department, the Executive Director, or the Executive Director's designees under this chapter, all individuals qualified as a taxpayer's representative shall comply with the provisions set forth in Uniform Rules of Procedure, Rule 28-106.107, F.A.C.

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21(1) FS. History—New 5-27-82, Formerly 12-6.06, Amended 3-6-03.*

### **PART III REFUND PROTEST PROCEDURES**

#### **12-6.030 Conference Procedures for Notices of Intent to Make Refund Claim Changes.**

(1)(a) The Department, upon determining that a refund should be wholly or partially denied, except in the case of a mathematical error, will issue a notice to the address provided by the taxpayer with his or her application for refund. The notice shall include a clear explanation of the reason for denial. No such notice will be issued by the Department if the only change made by the Department results from a mathematical error made by the taxpayer. Examples of mathematical errors include those resulting from the taxpayer's improper computation of collection allowances or discounts. The taxpayer shall have 30 consecutive calendar days after the date of issuance on the notice to sign the notice agreeing to the proposed changes or to mail or fax a written request for a conference to the address or fax number designated on the notice.

(b) If the Department issues a revised notice, the taxpayer shall have 30 consecutive calendar days after the date of issuance on the revised notice to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a conference should be made directly to the address or fax number designated on the notice or the revised notice. In order for the taxpayer's request for a conference to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the notice or on the revised notice.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the notice or the revised notice will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the address or fax number designated on the notice or the revised notice, prior to the expiration of the period within which a conference must be requested. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the notice or the revised notice for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to a conference.

(3) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on the notice or revised notice, unless specifically agreed to in writing by the Department.

(4) Failure to request a conference will not preclude instituting the protest procedures provided in Rule 12-6.032, F.A.C.

(5) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved, to expedite

ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule may be waived by the taxpayer.

(6) A Notice of Proposed Refund Denial (form DR-832R) will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to Rule 12-6.032, F.A.C.; or

(b) The taxpayer has not timely filed a written request for a conference; or

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

(7) When an amount to be refunded is determined, the Department shall voucher a request for warrant for the amount approved and submit it to the Comptroller.

*Rulemaking Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1), 215.26 FS. History—New 3-6-03.*

### **12-6.032 Protest of Notices of Proposed Refund Denial.**

(1)(a) A taxpayer may secure review of a Notice of Proposed Refund Denial (Form DR-832R), by implementing the provisions of this section.

(b) To secure review of a Notice of Proposed Refund Denial (NPRD), a taxpayer must file a written protest, postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside the United States) from the date of issuance on the NPRD.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days if the Notice is addressed to a person outside the United States) after the date of issuance on the NPRD will be deemed late filed, and the proposed refund denial becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside the United States) after the date of issuance on the NPRD, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the NPRD. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the NPRD is addressed to a person outside the United States) from the date of issuance on the NPRD. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed refund denial will become a final denial for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2) The procedures for obtaining review of a proposed refund denial are as follows:

(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the NPRD and shall include:

1. The taxpayer's name, address, telephone number, account number, federal taxpayer identifying number, and audit number or refund control number;

2. The type of tax and the dollar amount of the proposed refund denial that is being protested;

3. The refund period covered by the denial;

4. A copy of the Notice of Proposed Refund Denial;

5. A concise statement of facts including a statement of all disputed issues of material fact and a description of any additional information not previously available that supports the taxpayer's position. If there are no disputed issues of material fact, the petition must so indicate;

6. A statement supporting the taxpayer's position as to any contested issue;

7. A statement explaining the law or other authority upon which the taxpayer is relying;

8. A statement explaining the relief the taxpayer seeks from the Department;

9. Whether the taxpayer desires oral presentation and argument; and

10. Other information the taxpayer contends is material to the refund.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the Department that the

required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period the taxpayer may submit a request in writing to the Department for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the proposed refund denial shall become a final refund denial for purposes of Chapter 72, F.S., on the later of:

- a. The date a 15-consecutive calendar day period expires pursuant to this rule; or
- b. The expiration of 60 consecutive calendar days after the date of issuance on the NPRD.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the Refunds and Distribution Process will review the protest and initiate an attempt to resolve the issues. The Refunds and Distribution Process may require the field office that reviewed the Notice of Proposed Refund Denial to provide a written explanation, report, or narrative setting forth the basis for the denial. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law.

2. If a resolution is not achieved, the protest will be forwarded to Informal Dispute Resolution. Informal Dispute Resolution will review the protest and may require the office originating the Notice of Proposed Refund Denial to provide a written explanation, report, or narrative setting forth the basis for the refund denial. A copy of any explanation, report, or narrative provided by the originating office pursuant to this sub-paragraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the protest will be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date of issuance on the denial, unless the taxpayer timely files a petition for reconsideration of the denial.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the denial to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number designated on the denial, no later than 30 consecutive calendar days after the date of issuance on the denial, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Informal Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Informal Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Informal Dispute Resolution for an additional 15 consecutive calendar extension within which to submit this required information.

2. Upon failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period, the petition for reconsideration will be dismissed and the denial of the protest will be sustained. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., upon expiration of the original 15 consecutive calendar day period or the last extension period.

(c) If a petition for reconsideration is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the petition shall be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date the petition is denied.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

*Rulemaking Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1), 215.26 FS. History--New 3-6-03.*