

### 1 - Pre-Audit Preparation Period

**ISSUE:** The Department of Revenue is required to provide notification to a taxpayer of an audit at least 60 days before the audit begins. This 60-day period gives the taxpayer time to gather and prepare records, meet with their accountant or secure the assistance of a professional. Some practitioners have argued that the Department can have no contact with the taxpayer during this 60-day period even to answer questions asked by the taxpayer. It has also been argued that the Department must refrain from reviewing its own records or records voluntarily provided by the taxpayer prior to the end of the 60-day period or preparing internally for the audit.

**PROPOSAL:** Clarifies activities the Department may engage in during the 60-day period without violating the statute or receiving a waiver from the taxpayer. Provided that the Department may:

- Confirm receipt of the notification of intent to audit
- Answer any questions raised by the taxpayer or taxpayer representative
- Confirm date and location of the audit
- Confirm the way the taxpayer would like to provide records
- Discuss the scope of the audit
- Review records voluntarily provided by the taxpayer
- Review records already in the Department's possession

**Paragraph (f) is added to subsection (4) of section 202.34, Florida Statutes, and subsection (6) is added to that section, to read:**

(f) Once the notification required by paragraph (a) is issued, the department, at any time, may respond to contact initiated by a taxpayer to discuss the audit, and the taxpayer may provide records or other information, electronically or otherwise, to the department. The department may examine, at any time, documentation and other information voluntarily provided by the taxpayer, its representative, or other parties, information already in the department's possession, or publicly available information. Examination by the department of such information does not commence an audit if the review takes place within 60 days of the notice of intent to conduct an audit. The requirement in paragraph (a) does not limit the department from making initial contact with the taxpayer to confirm receipt of the notification or to confirm the date that the audit will begin. If the taxpayer believes the department has prematurely commenced the audit, the taxpayer must object in writing to the department prior to the issuance of an assessment or the objection is waived. If the department agrees that the audit was prematurely commenced, or a judge, hearing officer or administrative law judge so determines, the tolling period provided for in s. 213.345 shall be considered lifted for the number of days equal to the difference between the date of premature commencement of audit and the 61st day from the date of the department's notice of intent to audit.

(6) The department may adopt rules to administer this section.

**Subsection (5) of section 212.13, Florida Statutes, is amended, and subsection (7) is added to that section, to read:**

(f) Once the notification required by paragraph (a) is issued, the department, at any time, may respond to contact initiated by a taxpayer to discuss the audit, and the taxpayer may provide documentation or other information, electronically or otherwise, to the department. The department may examine, at any time, documentation and other information voluntarily provided by the taxpayer, its representative, or other parties, information already in the department's possession, or publicly available information. Examination by the department of such information does not commence an audit if the review takes place within 60 days of the notice of intent to conduct an audit. The requirement in paragraph (a) does not limit the department from making initial contact with the taxpayer to confirm receipt of the notification or to confirm the date that the audit will begin. If the taxpayer believes the department prematurely commenced the audit, the taxpayer must object in writing to the department prior to the issuance of an assessment or the objection is waived. If the department agrees that the audit was prematurely commenced, or a judge, hearing officer or administrative law judge so determines, the tolling period provided for in s. 213.345 shall be considered lifted for the number of days equal to the difference between the date of premature commencement of audit and the 61st day from the date of the department's notice of intent to audit.

(7) The department may adopt rules to administer this section.

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