Clerk of circuit court and charging sales tax

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Subject:
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TAXATION--WHEN SALES TAX MAY BE CHARGED BY CLERK OF CIRCUIT COURT

To: J. T. Lawhorne, Clerk, Circuit Court, Punta Gorda

Prepared by: J. Kendrick Tucker, Assistant Attorney General

QUESTION:

Are clerks of the circuit court required to collect sales tax on the sale of such instruments as certified copies of official records, copies of subdivision plats, and other such items?

SUMMARY:

Sales of certified copies of official or public records, including subdivision plats, by clerks of the circuit court are not subject to the sales tax when such records are not accessible for removal for copying by a commercial dealer. Sales of copies of other items that are not part of the public or official records and can be copied by commercial dealers engaged in that business are taxable pursuant to Rule 12A-1.41(8), Florida Administrative Code.

Your question is answered in the negative with the qualifications as discussed below.

Pursuant to its rule-making authority as provided by ss. 212.17(6) and 212.18(2), F. S., the Department of Revenue, which is charged with the enforcement and collection of the sales tax, has issued regulations covering the taxability of sales by county officers of copies of the public records. Rule 12A-1.41(8), Florida Administrative Code, provides in pertinent part as follows:

"Any sale by a county officer of photostats of the public records maintained in any county or municipal office, where such public records are not accessible for removal to a commercial dealer for photostating, is not taxable. The charge for photostating documents and other papers which are not public records [and which] can be photostated by a dealer engaged in such business represents the sale of tangible personal property and is taxable."

Thus, sales of certified copies of official or public records including subdivision plats by the clerks of the circuit court are not subject to the sales tax where such records are not accessible for removal to a commercial dealer for photostating. Sales of copies of other items that are not public records and which can be photocopied by a dealer engaged in such business are subject to the sales tax. Your question in answered accordingly. *See also* s. 212.02(9), F. S.