



September 24, 2022

Florida Department of Revenue  
Office of General Counsel

P.O. Box 6668  
Tallahassee, FL 32314-6668

VIA Email to:  
[AgencyClerk@floridarevenue.com](mailto:AgencyClerk@floridarevenue.com);  
[Eric.Peate@floridarevenue.com](mailto:Eric.Peate@floridarevenue.com)

Re: Space Exploration Technologies Corp  
Refund Claim Control Number: 5000192063  
FEIN: 01-0627671  
Sales & Use Tax  
Petition for Chapter 120 Administrative Hearing

Dear Sir or Madam:

The undersigned represents the above referenced Taxpayer, Space Exploration Technologies Corp (“Taxpayer”). Form DR 835, Power of Attorney, is attached hereto, which authorizes the undersigned to represent the Taxpayer in this matter. This letter is in response to the Notice of Proposed Refund Denial issued by the Florida Department of Revenue dated July 28, 2022. Taxpayer is timely filing this Petition for Chapter 120 Administrative Hearing.

This Petition for Chapter 120 Administrative Hearing is based on the following information, including new issues of material fact and new legal arguments:

1. The Taxpayer’s name is Space Exploration Technologies Corp. The Taxpayer’s address is 1 Rocket Rd., Hawthorne, CA 90250-6844. Taxpayer’s Federal EIN is 01-0627671, and its BPN is 2512879.
2. The type of tax being protested is Sales and Use Tax. The total amount of the Notice of Proposed Refund Denial is \$2,821,736.01.
3. A copy of the Notice of Proposed Refund Denial, dated July 28, 2022, is attached hereto.
4. Taxpayer reiterates the arguments made in its previously provided correspondence and documentation provided dated December 2, 2021.
5. The statement of facts, including disputed issues of material fact are as laid out in Taxpayer’s attached Petition for Reconsideration.
6. The Notice of Proposed Refund Denial notes that the Taxpayer has not provided sufficient information for the Florida Department of Revenue to refund the referenced denied portion of the refund claim. The denial portion of the refund claim is the refund claim in its entirety. The Notice of Proposed Refund Denial does not note what is insufficient regarding the information previously provided for



review, nor why this deemed insufficient information has caused the entire refund claim to be denied.

7. Taxpayer believes it provided all of the required and requested information and documentation, as it previously provided a file of refund support that included the assignment of right by vendor.

Thank you for your consideration in this matter. Should further information be needed, please contact the undersigned at 954-626-2933 or [mhirsch@bdo.com](mailto:mhirsch@bdo.com).

Sincerely,

*Michael Hirsch*

Michael Hirsch, Managing Director



**Florida Department of Revenue  
POWER OF ATTORNEY  
and Declaration of Representative**

DR-835  
R. 10/11  
TC

Rule 12-6.0015  
Florida Administrative Code  
Effective 01/12

**See Instructions for additional information**

**PART I - POWER OF ATTORNEY**

**Section 1. Taxpayer Information.** Taxpayer(s) must sign and date this form on Page 2, Part I, Section 8.

Taxpayer name(s) and address(es) <b>Space Exploration Technologies Corp. 1 Rocket Road Hawthorne, CA 90250</b>	Federal ID no(s). (SSN*, FEIN, etc.) <b>01-0627671</b>	Florida Tax Registration Number(s) (Business Part. No., Sales Tax No., R.T. Acct No., etc.) <b>78-80138504-51/2</b>
	Contact person <b>Richard Lee</b>	Telephone number <b>(310) 363-6799</b>
		Fax number <b>(310) 363-6001</b>

The Taxpayer(s) hereby appoint(s) the following representative(s) as attorney(s)-in-fact:

**Section 2. Representative(s).** Each representative must be listed individually, and must sign and date this form on Page 2, Part II.

Name and address (include name of firm if applicable) <b>Michael Hirsch - BDO USA LLP 515 E Las Olas Blvd., Fifth Floor Fort Lauderdale, FL 33301</b> E-mail address: <b>mhirsch@bdo.com</b>	Telephone number <b>(954) 626-2933</b> Fax number <b>(954) 962-1021</b> Cell phone number ( )
Name and address (include name of firm if applicable) <b>Jeffrey Corser - BOD USA LLP 1100 Peachtree Street, NE, Suite 700 Atlanta, GA 30309</b> E-mail address: <b>jcorser@bdo.com</b>	Telephone number <b>(404) 942-2954</b> Fax number <b>(404) 688-1075</b> Cell phone number ( )
Name and address (include name of firm if applicable) <b>Stephanie Schaff - BDO USA LLP 501 E Kennedy Blvd., Suite 910 Tampa, FL 33602</b> E-mail address: <b>sschaff@bdo.com</b>	Telephone number <b>(813) 302-6613</b> Fax number <b>(813) 448-1886</b> Cell phone number ( )

To represent the taxpayer(s) before the Florida Department of Revenue in the following tax matters:

**Section 3. Tax Matters.** Do not complete this section if completing Section 4.

Type of Tax (Corporate, Sales, Reemployment, formerly Unemployment, etc.)	Year(s) / Period(s)	Tax Matter(s) (Tax Audits, Protests, Refunds, etc.)
<b>Sales and Use Tax</b>	<b>2014 - 2022</b>	<b>Refunds</b>

**Section 4. To Appoint a Reemployment Tax (formerly Unemployment Tax) Agent Only.** Do not complete Sections 3 and 6 if completing Section 4.

By completing this section, an employer (taxpayer) appoints a representative to act as its Florida reemployment tax agent before the Florida Department of Revenue on a continuing basis and to receive confidential information with respect to mailings, filings, and other tax matters related to the Florida reemployment assistance program law. All other sections of this form (except Sections 3 and 6) must also be completed.

**Do not complete Section 4 unless you wish to appoint a reemployment tax agent on a continuing basis.**

Agent name	Agent number (required)
Firm name	Federal I.D. No. (required)
Address (if different from above)	Telephone number ( )

Mail Type: See Instructions for explanations. Check one box only.  1 (Primary)  2 (Reporting)  3 (Rate)  4 (Claim)

**Section 5. Acts Authorized.**

The representative(s) are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described in Section 3 and Section 4 (for example, the authority to sign any agreements, consents, or other documents). Except as otherwise provided, the authority specifically includes the power to execute waivers of restrictions on assessment or collection of deficiencies in tax, to execute consents extending the statutory period for assessment or claims for refund of taxes, and to execute closing agreements under section 213.21, Florida Statutes. This authority does not include the power to endorse or cash warrants, or the power to sign certain returns.

If you want to authorize a representative named in Section 2 to receive (but not to endorse or cash) refund warrants, write the name of the representative on this line and check the box .....▶

List any specific limitations or deletions to the acts otherwise authorized in this Power of Attorney.  
Representative does not have the authority to sign any agreements, consents or other documents.



Florida Tax Registration Number:

Taxpayer Name(s): Space Exploration Technologies Corp. Federal Identification Number: 01-0627671

- Taxpayer(s) must complete Page 1 of this Power of Attorney or it will not be processed.

**Section 6. Notices and Communication.** Do not complete Section 6 if completing Section 4.

- Notices and other written communications will be sent to the first representative listed in Part I, Section 2, unless the taxpayer selects one of the options below. Receipt by either the representative or the taxpayer will be considered receipt by both.
  - If you want notices and communications sent to both you and your representative, check this box
  - If you want notices or communications sent to you and not your representative, check this box

Certain computer-generated notices and other written communications cannot be issued in duplicate due to current system constraints. Therefore, we will send these communications to only the taxpayer at his or her tax registration address.

**Section 7. Retention / Nonrevocation of Prior Power(s) of Attorney.**

The filing of this Power of Attorney will not revoke earlier Power(s) of Attorney on file with the Florida Department of Revenue, even for the same tax matters and years or periods covered by this document. If you want to revoke a prior Power of

Attorney, check this box

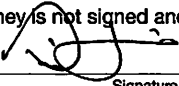
You must attach a copy of any Power of Attorney you wish to revoke.

**Section 8. Signature of Taxpayer(s).**

If a tax matter concerns a joint return, both husband and wife must sign if joint representation is requested. If signed by a corporate officer, partner, member/managing member, guardian, tax matters partner/person, executor, receiver, administrator, trustee, or fiduciary on behalf of the taxpayer, I declare under penalties of perjury that I have the authority to execute this form on behalf of the taxpayer.

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

If this Power of Attorney is not signed and dated, it will be returned.


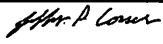
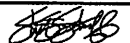
  
 Signature \_\_\_\_\_ Date 4/25/22 Title (if applicable) SR. DIRECTOR, TAX  
RICHARD LEE  
 Print name \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ Title (if applicable) \_\_\_\_\_  
 Print name \_\_\_\_\_

**PART II - DECLARATION OF REPRESENTATIVE**

**Under penalties of perjury, I declare that:**

- I am familiar with the mandatory standards of conduct governing representation before the Department of Revenue, including Rules 12-6.006 and 28-106.107 of the Florida Administrative Code, as amended.
- I am familiar with the law and facts related to this matter and am qualified to represent the taxpayer(s) in this matter.
- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified therein, and to receive and inspect confidential taxpayer information.
- I am one of the following:
  - Attorney - a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - Certified Public Accountant - duly qualified to practice as a certified public accountant in the jurisdiction shown below.
  - Enrolled Agent - enrolled as an agent pursuant to the requirements of Treasury Department Circular Number 230.
  - Former Department of Revenue Employee. As a representative, I cannot accept representation in a matter upon which I had direct involvement while I was a public employee.
  - Reemployment Tax Agent authorized in Section 4 of this form.
  - Other Qualified Representative
- I have read the foregoing Declaration of Representative and the facts stated in it are true.

If this Declaration of Representative is not signed and dated, it will not be processed.

Designation - Insert Letter from Above (a - f)	Jurisdiction (State) and Enrollment Card No. (if any)	Signature	Date
a	FL - 0376530		04/25/2022
f	P01282483		04/25/2022
f	P02443103		04/25/2022



**Florida Department of Revenue**  
*General Tax Administration*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

**July 28, 2022**

**SPACE EXPLORATION TECHNOLOGIES CORP**  
**1 Rocket Rd**  
**Hawthorne CA. 90250-6844**

**Refund Claim Control Number: 5000192063**  
**Refund Amount: \$2,821,736.01**  
**Proposed Denial Amount: \$2,821,736.01**

Dear Taxpayer:

Based on a review of the documentation submitted, you have not provided sufficient information for the Department to refund the referenced denied portion of your refund claim. Assignment of Rights were not useable for refund purposes.

If you disagree with my findings, you may file an informal protest by filing a valid written protest letter to me within 15 days of the date of this letter. Please reference the reverse side of your Notice of Proposed Refund Denial, form DR-832R for instructions on what information to include in your written protest. If you do not respond to me by then, the proposed refund denial will become the final action and your protest rights expire.

The only remaining recourses available to a taxpayer who has failed to timely protest a proposed refund denial is to either file an action in Circuit Court or, alternatively to file a petition under the applicable provisions of Chapter 120, Florida Statutes.

If you have any questions, please contact me.

**Please include the Refund Control number on all correspondence.**

Drew Usry  
Tax Auditor  
850-717-6342  
FAX 850-410-2526  
Andrew.Usry@floridarevenue.com

**NOTE**

Be advised under s. 213.25, Florida Statutes, the department is authorized to reduce any refund or credit for the same or any other tax owed by the same taxpayer.

Social Security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under section 213.053 and 119.071, Florida Statutes, and are not subject to disclosure as public records.



Tel: 561-688-1600  
Fax: 561-688-1848  
www.bdo.com

1601 Forum Place, 9th Floor  
Centurion Plaza  
West Palm Beach, FL 33401

December 2, 2021

Florida Department of Revenue  
Refunds Subprocess  
P.O. Box 6470  
Tallahassee, FL 32314

VIA Email to  
TADR\_Protests@floridarevenue.com

Re: Space Exploration Technologies Corp.  
Refund Number: 5000171655  
BPN: 2512879

Dear Sir or Madam:

The undersigned represents the above referenced Taxpayer. Form DR 835, Power of Attorney, is attached, which authorizes the undersigned to represent the Taxpayer in this matter. This letter is in response to the Notice of Proposed Refund Denial dated November 02, 2021.

This Protest is based on the following information:

1. The Taxpayer's name is Space Exploration Technologies Corp. (hereinafter "SpaceX" or "Taxpayer"). Taxpayer's address is 1 Rocket Road, Hawthorne, CA 90250. Taxpayer's Federal EIN is 01-0627671 and it's BPN is 2512879.
2. The refund denial being protested is for Sales and Use Tax. The total amount of the Notice of Proposed Refund Denial is \$89,345.56.
3. A copy of the Notice of Proposed Refund Denial dated November 28, 2018 is attached hereto.
4. The statement of facts, including disputed issues of material fact are as follows:
  - a. Space X operates a spaceport business in Florida.
  - b. As a result of the audit, the Department is trying to deny a refund of \$2,821,736.01 in sales tax.
  - c. Taxpayer contests the Department denial of its refund request and so states:

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.



- i. On or around June 20, 2017, Taxpayer filed Form DR-26S, Application for Refund-Sales and Use Tax, via online filing. Confirmation of the same is attached hereto.
- ii. On or around November 02, 2021, the Department issued its DR-832R, Notice of Proposed Refund Denial (hereinafter “NOPRD”).
- iii. Taxpayer submits this denial was in error, and they are entitled to a refund of the balance of tax paid.
- iv. Taxpayer designs, manufactures, and launches advanced rockets and spaceships from a location in Florida.
- v. Additionally, Taxpayer uses marine vessels to recover parts and materials from international waters following a rocket launch or landing. Taxpayer does not own the vessels, but the ships are leased either as a bar boat charter, or a time charter.
- vi. Taxpayer purchases items of machinery and equipment for their Florida location, to further their spaceport business.
- vii. Florida has broad exemptions for purchases used predominantly in space related research and development activities.
- viii. Taxpayer has documentation in support of its purchases. This documentation has been provided, and summarily ignored by the Florida Department of Revenue.
- ix. This data is voluminous and will be provided in an organized presentation for review once the file has been assigned for review.

5. Taxpayer’s position is based on the following legal analysis and authority:

**a. The Taxpayer submits its purchases of machinery and equipment are exempt from sales and use tax imposed by Chapter 212, Florida Statutes.**

Section 212.08, Florida Statutes, (“F.S.”), provides an exemption from tax for businesses engaged in spaceport activities in Florida. Spaceport activity is defined to include activities directed or sponsored by Space Florida, under the Space Florida Act. 212.02(22) F.S. The statute specifically exempts:

Industrial machinery and equipment used in defense or space technology facilities ... to design, manufacture, assemble, process, compound, or produce defense technology products or space technology products for sale or for use by these facilities are exempt from the tax imposed by this chapter.

212.08(5)(j)1b., F.S.



In furtherance of this, “space technology products” means:

[P]roducts that are specifically designed or manufactured for application in space activities, including, but not limited to, space launch vehicles, space flight vehicles, missiles, satellites or research payloads, avionics, and associated control systems and processing systems and components of any of the foregoing. The term does not include products that are designed or manufactured for general commercial aviation or other uses even though those products may also serve an incidental use in space applications.

212.08(4)(j)7.d., F.S.

Taxpayer designs, manufactures, and launches advanced rockets and spaceships from a location in Florida. As such, the Taxpayer’s products are “space technology products,” designed or manufactured for application in space activities. Taxpayer is eligible for the exemption from sales tax on purchases on industrial machinery and equipment. Taxpayer requests the Department grant the refund applied for, as it pertains to machinery and equipment.

**b. The Taxpayer submits its repairs to machinery and equipment are exempt from sales and use tax imposed by Chapter 212, Florida Statutes.**

Section 212.08(7)(xx), F.S., exempts labor and parts used in the repair of machinery and equipment at a fixed location in the state. This exemption applies to SIC Codes specified, including SIC Code 38. Taxpayer is classified under SIC code 38. Additionally, Taxpayer is located at a fixed location in the state. Taxpayer’s purchases for repairs to machinery and equipment are therefore exempt from sales and use tax. Taxpayer requests the Department grant the refund applied for, as it pertains to repairs of machinery and equipment.

**c. Tax associated with Taxpayer’s rental consideration should be refunded, as the Taxpayer’s lease is exempt pursuant to 212.031, Florida Statutes.**

Section 212.031, F.S. addresses the tax on rental of real property in Florida. Specifically, Section 212.031(1)(a)12. F.S. provides that there is an exemption from tax on the lease of property for space flight business purposes. Specifically, when a property is used for more than 50% space flight business, the lease of the property is exempt from Florida sales tax. “Space flight business” is defined to include:

[T]he manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto.

*Id.*

Taxpayer is in the business of building and launching rockets, as well as recovering parts associated with launch and landing. Taxpayer is operating a facility in support of launch activity, and administrative activities directly related thereto. As such, Taxpayer is in the





“space flight business.” In pursuit of this business, Taxpayer leases a location in Florida. This space is used for more than 50% space flight business, and therefore exempt from Florida sales tax on the rental of its facility. Taxpayer hereby requests a refund of tax associated with the payments of rental consideration on its facility.

**d. Tax paid on the Taxpayer’s lease of marine vessels and other items associated with drone recovery missions used outside the state’s territorial waters, should be refunded, as the vessels are partially exempt for use in international waters.**

As a general rule, Section 212.05, F.S., provides every person is engaged in a taxable privilege when engaging in the business of selling or leasing, at retail, tangible personal property. Tangible personal property not purchased or leased in the State but brought into the State for any use, consumption, or storage will have tax levied at a rate of six percent (6%). Section 212.06(1)(a), F.S. The lease of a boat in Florida is subject to tax, unless an exemption applies. See also Rules 12A-1.007(13)(a)1. and 12A-1.071(16), F.A.C. One such exemption from tax exists on vessels engaged in interstate or foreign commerce. See s. 212.08(8), F.S. Essentially, one will owe tax computed on the Florida usage of the leased vessel based on an apportionment factor. Section 212.08(8)(a), F.S.; see also Rule 12A- 1.0641(3), F.A.C., TAA 16A-003.

Taxpayer leases marine vessels for use in the recovery of rocket parts following takeoff and landing. The Taxpayer’s lease of drone ships, and leased charters, referenced above are vessels used largely in interstate waters, not in Florida. The lease of the vessels is subject to tax based upon Taxpayer’s use within Florida. The Taxpayer requests that the tax associated with the rental of marine vessel be refunded according to the vessel’s apportioned use within Florida.

6. Taxpayer hereby requests that it be allowed to make an oral presentation and argument regarding this assessment.

Thank you for your consideration in this matter. Should further information be needed, please contact the undersigned at TGoldstein@bdo.com, or 561-985-1744 or Amanda Ribeiro at ARibeiro@bdo.com, or 954-309-0097.

Sincerely,

Taryn Goldstein  
POA

CC:  
Jane Hasselberg  
Jane.Hasselberg@spacex.com