



Sales and Use Tax on the Rental, Lease, or License to Use Commercial Real Property

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What is Taxable?

Florida state sales tax rate of 4.5%, plus any applicable discretionary sales surtax, is due on the total rent charged for renting, leasing, or granting a license to use commercial real property in Florida, unless the rent is specifically exempt. Some examples of taxable commercial real property rentals include commercial office or retail space, warehouses, convention and meeting rooms, and self-storage units or mini warehouses.

The local discretionary sales surtax rate is the tax rate imposed by the county where the real property is located. There is no limitation on the amount of surtax for the rental, lease, let, or license to use commercial real property.

The total rent charged includes all consideration due and payable by the tenant to the landlord for the privilege or right to use or occupy the real property. Payments for services required to be paid by the tenant as provided in the lease or license agreement, such as charges for common area maintenance, customer parking provided at no charge to the customer, or janitorial services, are included in the total rent charged and subject to sales tax and surtax. If the tenant makes payments on behalf of the landlord, such as mortgage payments, ad valorem taxes (whether paid to the landlord or directly to the county tax collector's office), or insurance, the payments are included in the total rent charged and subject to sales tax and surtax.

Rentals, leases, and licenses to use or occupy commercial real property by related persons, as defined in section (s.) 212.02(12), Florida Statutes (F.S.), are subject to sales tax and discretionary sales surtax. For example, the lease of commercial real property by a parent corporation to one of its subsidiaries, or by a shareholder to a corporation, or by an individual property owner to a related single member LLC, is subject to sales tax and surtax.

What is Exempt?

Florida law (s. 212.031, F.S.) provides several tax exemptions for certain types or uses of real property. For example, the lease or rental of real property assessed by the county property appraiser as agricultural property is exempt. The lease or rental of real property to nonprofit organizations or governmental entities that hold a current *Florida Consumer's Certificate of Exemption* (Form DR-14) is exempt.

Who Must Register to Collect Tax?

Any person who rents, leases, or grants a license to others to use commercial real property must register with the Department. Any agent who receives rental payments on behalf of the property owner or lessor of the property must register with the Department. Each place of business is required to be separately registered by the owner, landlord, agent, or other person who collects and receives rental payments on behalf of the property owner or lessor.

You can register to collect, report, and pay sales tax and discretionary sales surtax online at floridarevenue.com/taxes/registration. The online system will guide you through a series of questions to help determine your tax obligations. If you do not have internet access, you can complete a paper *Florida Business Tax Application* (Form DR-1). You must complete a separate application for each commercial real property location.

As a registered sales and use tax dealer, a *Certificate of Registration* (Form DR-11) and a *Florida Annual Resale Certificate for Sales Tax* (Form DR-13) will be mailed to you. Paper returns will be mailed to you unless you are filing electronically. The *Certificate of Registration* must be displayed in a clearly visible place at your business location. The *Florida Annual Resale Certificate for Sales Tax* is used to lease or rent commercial real property tax exempt when the property will be subleased to others. Florida law provides for criminal and civil penalties for fraudulent use of a *Florida Annual Resale Certificate for Sales Tax*.

Subleases

If you sublease any portion of the commercial real property you rent, lease, or license to another person, you must collect sales tax and surtax on the rental payments received. You may take a credit on a pro-rated basis for the sales tax and surtax you paid to your landlord on the portion of the property you sublease.

Example: You lease 200 square feet of floor space for \$400. The property is located within a county that does not impose a discretionary sales surtax.

Original Lease Amount	(Multiplied by) Sales Tax Rate	(Equals) Sales Tax Paid to Landlord
\$400.00	X 4.5%	= \$18.00

You sublease half of your space (100 square feet) to another person for \$300.

Sublease Amount	(Multiplied by) Sales Tax Rate	(Equals) Sales Tax You Collect
\$300.00	X 4.5%	= \$13.50

You must pay the sales tax you collected from your tenant. However, you may take a credit for the sales tax paid to your landlord on the portion of the property you subleased to your tenant. In the above example, you subleased one-half of the floor space originally leased from your landlord.

The sales tax paid to landlord on the entire 200 square feet is \$18.00.

The amount of sales tax due on 1/2 the floor space (100 square feet) is \$9.00.

You collected \$13.50 on 1/2 the floor space from your sublease.

You may take a credit of \$9.00 against the \$13.50 in sales tax you collected on your sublease.

\$13.50 (tax collected from sublease)
– \$9.00 (credit for tax already paid to landlord)
\$ 4.50 (remit the difference to the Department)

If you sublease or assign your interest in the leased property, or retain an insignificant portion of the property, you may provide a copy of your *Florida Annual Resale Certificate for Sales Tax* to your landlord to lease or rent the property tax exempt. You must collect sales tax and surtax on the subleased property and pay tax directly to the Department on any portion of the property you retain.

Tenant Liability

If you lease, rent, or license commercial real property and do not pay the applicable sales tax and surtax to your landlord, you are directly liable to the Department for any unpaid sales tax and surtax, plus interest and penalty due.

Filing and Paying Tax

You can file returns and pay sales and use tax, plus any applicable surtax, using the Department's online file and pay website at floridarevenue.com/taxes/filepay or you may purchase software from a software vendor. A list of software vendors is available at floridarevenue.com/taxes/eservices.

Returns and payments are due on the 1st and late after the 20th day of the month following each reporting period, whether you are filing monthly, quarterly, twice a year, or yearly. If the 20th falls on a Saturday, Sunday, or state or federal holiday:

- **returns** are timely if they are filed electronically (without payment), postmarked, or delivered in person on the first business day after the 20th
- **payments** are timely if they are postmarked or delivered in person on the first business day after the 20th

Florida law requires you to file a tax return even if you do not owe sales and use tax.

When you electronically pay only, or you electronically file and pay at the same time, you must initiate your electronic payment and receive a confirmation number no later than 5 p.m. ET on the business day prior to the 20th. Keep the confirmation number in your records. The *Florida eServices Calendar of Electronic Payment Deadlines* ([Form DR-659](#)) provides a list of deadlines for initiating electronic payments on time and is available at floridarevenue.com/forms under the eServices section.

If you file your return or pay tax late, a late penalty of 10% of the amount of tax owed, but not less than \$50, may be charged. The \$50 minimum penalty applies even if no tax is due. Penalty will also be charged if your return is incomplete. A floating rate of interest applies to underpayments and late payments of tax. Interest rates are available at floridarevenue.com/taxes/rates.

Updating Your Business Information

The quickest way to notify the Department of changes to your account, such as updates to your name, mailing address, business location, or to temporarily suspend or resume business operations, is online at floridarevenue.com/taxes/updateaccount.

If you close or sell your business, **you must file a final return and pay all taxes due within 15 days** after closing or selling the business. Your final return must cover the period from your most recent return filing to the closing date.

Learn More and Stay Informed

Visit the Department's Taxpayer Education webpage at floridarevenue.com/taxes/education for additional information. The Taxpayer Education page has sales and use tax tutorials on how to complete your tax return, calculate discretionary sales surtax, electronically file and remit your taxes, and pay estimated tax.

Reference Material

Law – s. 212.031, F.S., available at leg.state.fl.us

Brochures - Download these brochures from floridarevenue.com/forms:

- *Sales and Use Tax on Rental of Living or Sleeping Accommodations* (GT-800034)
- *Sales and Use Tax on Tangible Personal Property Rentals* (GT-800038)
- *Sales and Use Tax on Amusement Machines* (GT-800020)
- *Sales and Use Tax on Vending Machines* (GT-800041)

Contact Us

Tax forms and publications are available at floridarevenue.com/forms.

Information and tutorials are available at floridarevenue.com/taxes/education.

To speak with a Department of Revenue representative, call Taxpayer Services at 850-488-6800, Monday through Friday, excluding holidays.

Subscribe to Receive Updates by Email from the Department.

Subscribe to receive an email for filing due date reminders, Tax Information Publications (TIPs), or proposed rules, including notices of rule development workshops and emergency rulemaking. Subscribe today at floridarevenue.com/dor/subscribe.