



Sales and Use Tax on Concession Sales

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General information for concession stand owners and operators

What is Taxable?

Sales of food, drinks, tobacco products, and other items with a sales price of 10 cents or more are taxable when made from concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, street corners, and other similar places. For example, sales of food and beverages made at hot dog, ice cream, yogurt, or snow cone stands, and sales of tobacco products at tobacco stands are taxable.

Sales of food, drinks, and other items sold at fundraisers and similar events, including those sold by nonprofit organizations that hold a valid Florida *Consumer's Certificate of Exemption* (Form DR-14), are taxable unless specifically exempt.

What is Exempt?

Churches, synagogues, and other religious institutions with an established physical place for worship, at which nonprofit religious services and activities are regularly conducted and carried out, may sell items of tangible personal property tax exempt, including sales made at concession stands. To qualify, the religious institution must hold a valid Florida *Consumer's Certificate of Exemption* as a religious institution with an established physical place for worship.

Qualified veterans' organizations may sell food or drink, including alcoholic beverages, tax exempt when sold in connection with customary veterans' organization activities to members of qualified veterans' organizations. Qualified veterans' organizations are nationally chartered or recognized veterans' organizations that hold current exemptions from federal income tax under section 501(c)(4) or (19) of the Internal Revenue Code. To qualify, the veterans' organization must hold a valid Florida *Consumer's Certificate of Exemption*.

Fundraisers by Nonprofit Organizations

Sales made at concession stands by organizations that hold a valid Florida *Consumer's Certificate of Exemption* (except schools offering grades K through 12, and parent teacher organizations or associations for those schools) at a fundraising event are not subject to sales tax or discretionary sales surtax when:

- The organization holds no more than two fundraising events during any 12-month period;
- Each fundraising event is held for fewer than 31 consecutive days;
- The location of the concession stand is not on the same premises of other businesses required to collect sales tax; and
- Florida sales tax and any discretionary surtax is paid on the cost of taxable food, drinks, supplies, and other items sold at the concession stand.

Fundraisers by Schools and Parent Teacher Organizations and Associations

Schools offering grades K through 12, and their parent teacher organizations and associations (PTOs and PTAs), may elect to pay sales tax and surtax to suppliers when purchasing taxable items to sell as a fundraiser, including items sold at concession stands. If sales tax and surtax is paid to the supplier, the school, PTO, or PTA does not need to collect tax during the fundraiser. The items purchased for resale may not be purchased tax exempt using a Florida *Consumer's Certificate of Exemption* issued to the school, PTO, or PTA.

Example: A PTA operates the only concession stand selling food, drinks, and school T-shirts at an elementary school fall festival held for students and parents. The PTA holds a valid Florida *Consumer's Certificate of Exemption*, but does not have a sales and use tax *Certificate of Registration*

(Form DR-11). The PTA paid tax when purchasing drinks, food, serving supplies, and T-shirts, and may sell those items without collecting sales tax or surtax.

Food and Drink Fundraisers by School Support Organizations

“School support organization” means an organization whose sole purpose is to raise funds to support extracurricular activities at public, parochial, or nonprofit schools that teach students in grades K through 12.

School support organizations may pay tax to their suppliers on the cost price of taxable food, drinks and supplies necessary to serve such food and drinks. If sales tax and surtax is paid to the supplier, the organization does not need to collect or remit tax to the Department. The school support organization is not required to pay sales tax when making purchases of tax-exempt items.

Example: A high school booster club sells drinks, hamburgers, hot dogs, chips, ice cream, and similar items at a high school football game. The booster club paid tax when purchasing the drinks, food, and serving supplies. The booster club may sell the food and drinks without collecting tax or surtax.

How Tax is Calculated on Concession Sales

State sales tax at a rate of 6 percent, plus any applicable discretionary sales surtax, is due on sales of food and beverages and other taxable items at concession stands. Surtax is due at the rate imposed by the county where the concession stand is located. When it is impractical to separately state the sales tax and surtax, the following tax rate divisors may be used to calculate tax and surtax due on concession sales.

Sales and Surtax Rate	Concession Stand Divisor
6.0%	1.0659
6.5%	1.0697
7.0%	1.0751
7.5%	1.0795
8.0%	1.0839

To calculate the sales tax, plus any applicable surtax:

1. Divide the **total receipts** from charges for the sale of taxable food, beverages, and other items by the tax rate divisor for the county where the concession stand is located to compute **gross sales**.
2. Subtract **gross sales** from the **total receipts** to compute the amount of sales tax and surtax due.

Example
The total concession stand's receipts of \$100 are received from a concession stand located in a county with a combined sales and surtax rate of 7.0%. The concession stand rate divisor is 1.0751.
$\$100 \div 1.0751 = \93.01 (gross sales)
$\$100 - \$93.01 = \$6.99$ (sales tax and surtax due)
$\$93.01 \times .01 = \$.93$ (discretionary sales surtax)
Report \$.93 surtax for this transaction on your <i>Sales and Use Tax Return</i> .

Leases or Rentals of Real Property

The rental, lease, or license of space to operate a concession stand is the rental, lease, or license to use real property. The property owner is required to collect sales tax and discretionary sales surtax on the total rental consideration, including any commission or percentage of concession stand sales, received by the location owner from the concession stand operator. The rate of discretionary sales surtax on real property is the 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. For more information, review the *Sales and Use Tax on Commercial Real Property Rentals* brochure (GT-800016).

The lease, sublease, license, or rental of space (real property) to any person providing food and drink concessions is exempt when the space is within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued by the Division of Pari-Mutuel Wagering, Florida Department of Business and Professional Regulation, according to Chapter 550, Florida Statutes. The lease or rental of space (real property) to any person providing concessionaire services including food, drink and other items of tangible personal property within the premises of an airport is subject to tax on the lease or rental; however, any license to use the space (real property) is exempt.

Rentals of Tangible Personal Property

The rental or lease of items of tangible personal property used to operate a concession stand, such as a table, display case, or cash register, are subject to the state tax rate of 6 percent, plus any applicable discretionary sales surtax. The leased or rented item is subject to discretionary sales surtax at the rate imposed by the county where the item is used.

Who Must Register to Collect Tax?

Any person selling taxable items from a concession stand, and any person who rents, leases, or grants a license to others to use real property to operate a concession stand, must register as a dealer to collect and report sales tax. Unless an exemption from sales tax applies, nonprofit organizations selling taxable items at concession stands as fundraisers are required to register to collect, report and remit sales tax and surtax.

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 that will help you determine your tax obligations. If you do not have internet access, you can complete a paper *Florida Business Tax Application* (Form DR-1).

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. If you are not filing electronically, paper tax returns will be mailed to you. 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 for tax-exempt purchases you intend to resell. If the goods bought for resale are later used (not resold), you must report and pay use tax and surtax on those items. Florida law provides for criminal and civil penalties for fraudulent use of a *Florida Annual Resale Certificate for Sales Tax*.

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 on the Department's website at **floridarevenue.com/taxes/eservices**.

Returns and payments are due the 1st and late after the 20th 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 filed electronically, postmarked, or hand-delivered 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 5:00 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 on the Department's website at floridarevenue.com/forms.

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 on the Department's website 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, address or location, and when you 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.

Resources for Business Success: Partnership with SCORE

The Department is proud to partner with SCORE to provide tools and resources to help businesses succeed. SCORE is a nonprofit association of volunteer business counselors supported by the U.S. Small Business Administration. In partnership with SCORE, the Department presents webinars on topics that provide important information for your business. Webinars are available through the Department's website at floridarevenue.com/taxes/education.

Reference Material

Tax Rules – Administrative rules published in the *Florida Administrative Code (F.A.C.)* are available online at flrules.org. Search for rules:

- *12A-1.0011 – Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations*
- *12A-1.0115 – Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies*
- *12A-1.044 – Vending Machines*
- *12A-15.010 – The Sale of Food, Drink, and Tangible Personal Property at Concession Stands*

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

- *Sales and Use Tax on Amusement Machines (GT-800020)*
- *Sales and Use Tax on Commercial Real Property Rentals (GT-800016)*

Contact Us

Information, forms, and tutorials are available on the Department's website at floridarevenue.com.

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

Visit floridarevenue.com/dor/subscribe to sign up to receive an email when the Department posts:

- Tax Information Publications (TIPs)
- Proposed rules, including notices of rule development workshops and emergency rulemaking
- Due date reminders for reemployment tax and sales and use tax