



# 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 at the rate of 5.8%, 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 rate of discretionary sales surtax 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.

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 212.02(12), Florida Statutes, are subject to sales tax and 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, is subject to sales tax and surtax.

## What is Exempt?

Florida law (section 212.031, Florida Statutes) 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](http://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. 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 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 5.8%	= \$23.20

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 5.8%	= \$17.40

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 on the entire floor space was \$23.20. The amount of sales tax due on one-half of the floor space is \$11.60. You collected \$17.40 on one-half of the floor space you subleased. You may take a credit of \$11.60 against the \$17.40 in sales tax you collected, and remit \$5.80 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](http://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](http://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 e-Services Calendar of Due Dates* (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](http://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 also to businesses who file a late return 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](http://floridarevenue.com/taxes/rates).

## How to Report Tax

Report charges for rentals, leases, or licenses to use commercial real property on your *Sales and Use Tax Return*. Below is an example using Form DR-15, *Sales and Use Tax Return*.

### Form DR-15, *Sales and Use Tax Return* (front of paper return):

Certificate #: <b>Florida</b>		SALES AND USE TAX RETURN		HD/PM Date: / /	DR-15 R. 01/15
A. Sales/Services	1. Gross Sales	2. Exempt Sales	3. Taxable Amount	4. Tax Due	
B. Taxable Purchases	Include use tax on internet / out-of-state untaxed purchases →		-	-	-
C. Commercial Rentals	-	-	-	-	-
D. Transient Rentals	-	-	-	-	-
E. Food & Beverage Vending	-	-	-	-	-
Transient Rental Rate:	Surtax Rate:	Reporting Period:	5. Total Amount of Tax Due	-	-
 FLORIDA DEPARTMENT OF REVENUE 5050 W TENNESSEE ST TALLAHASSEE FL 32399-0120			6. Less Lawful Deductions	-	-
Due: _____			7. Net Tax Due	-	-
Late After: _____			8. Less Est Tax Pld / DOR Cr Memo	-	-
<input type="checkbox"/> Check here if payment was made electronically.			9. Plus Est Tax Due Current Month	-	-
			10. Amount Due	-	-
			11. Less Collection Allowance	-	-
			12. Plus Penalty	-	-
			13. Plus Interest	-	-
			14. Amount Due with Return	-	-

If you file Form DR-15, *Sales and Use Tax Return*, on Line C, *Commercial Rentals*, report:

1. Gross Sales – total rental charges received (rental consideration);
2. Exempt Sales – tax exempt rent, if any;
3. Taxable Amount – taxable rent; and
4. Tax Due – state sales tax due, plus any applicable surtax.

Commercial rental sales should not be reported on Line A, *Sales/Services* or Line D, *Transient Rentals*.

**Subleases:** If you are reporting sales tax and surtax on commercial real property you subleased, report the sales tax and surtax you collected from your tenant on **Line C, Commercial Rentals**. Take a credit for the sales tax paid to your landlord on the portion of the property you subleased to your tenant on **Line 6, Less Lawful Deductions**.

**Back of Form DR-15, Sales and Use Tax Return (back of paper return):**

The surtax exemption for sales of items over \$5,000 does not apply to commercial rentals.

**Discretionary Sales Surtax ( Lines 15(a) through 15(d) )**

15(a). Exempt Amount of Items Over \$5,000 (included in Column 3) .....	15(a).	_____
15(b). Other Taxable Amounts NOT Subject to Surtax (included in Column 3) .....	15(b).	_____
15(c). Amounts Subject to Surtax at a Rate Different Than Your County Surtax Rate (included in Column 3) .....	15(c).	_____
15(d). Total Amount of Discretionary Sales Surtax Due (included in Column 4) .....	15(d).	_____

Report the discretionary sales surtax included in the amount of tax due reported in Column 4., Line C, in the surtax reported on Line 15(d). Total Amount of Discretionary Sales Surtax Due.

**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](http://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](http://floridarevenue.com/taxes/education).

**Reference Material**

**Law** – Section 212.031, Florida Statutes, available at [leg.state.fl.us](http://leg.state.fl.us)

Brochures - Download these brochures from [floridarevenue.com/forms](http://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**

Information, forms and tutorials are available on the Department's website at [floridarevenue.com](http://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](http://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.