Florida Department of Revenue
Office of Technical Assistance

Jim Zingale
Executive Director

5050 West Tennessee Street Tallahassee FL 32399 floridarevenue.com

QUESTION: Taxpayer is requesting guidance with regard to the Florida sales tax rate that should be paid to its Lessor for the hangar space Taxpayer rents for the purpose of painting/repairing aircraft. If this determination finds that Taxpayer is entitled to the reduced sales tax rate and the repeal of the tax on commercial rentals, please provide guidance on requesting a refund for the overpayment of sales tax.

ANSWER: Based on the facts and documentation provided, it appears that Taxpayer rents hangar space for the **sole purpose** of painting/repairing aircraft, and Taxpayer does not rent hangar space for the parking or storage of aircraft. Therefore, effective June 1, 2024, the Florida sales tax rate to be charged and paid on the space Taxpayer is renting, under these circumstances, would be 3% (the 2% Florida sales tax rate and the [redacted]). Effective October 1, 2025, no state sales tax or discretionary sales surtax applies to rent or license fees for rental or occupancy periods beginning on or after October 1, 2025.

To pursue a refund of any sales tax paid in error, please refer to the discussion under the title, **Refunds**, below.

November 3, 2025

[redacted]

Via email: [redacted]

Re: Technical Assistance Advisement – TAA #: 25A-010
[redacted] ("Taxpayer")
Sales and Use Tax – Commercial Rental/Refunds
Sections 212.031 and 215.26, Florida Statutes - ("F.S.")
Rules 12A-1.014 and 12A-1.070, Florida Administrative Code - ("F.A.C.")
BP #: [redacted]

Dear [redacted]

This is in response to your email dated [redacted], and your correspondence dated [redacted], requesting the Department's issuance of a Technical Assistance Advisement ("TAA")

pursuant to Section(s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C, Florida Administrative Code, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

Requested Advisement

Taxpayer is requesting guidance with regard to the Florida sales tax rate that should be paid to its Lessor for the hangar space Taxpayer rents for the purpose of painting/repairing aircraft. If this determination finds that Taxpayer is entitled to the reduced sales tax rate and the repeal of the sales tax on commercial rentals, please provide guidance on requesting a refund for the overpayment of sales tax.

Facts

Taxpayer is a business located in [redacted]. Taxpayer's physical location is at the [redacted] ("Airport"), [redacted].

Taxpayer's website, [redacted], provides the following information regarding Taxpayer's business activities at Airport:

[redacted]

[redacted]

Taxpayer provided a sample invoice which is indicative of its business activities. The invoice charges were as follows:

Foil and strip aircraft
Sand and clean aircraft
Metal prep aircraft
Prime aircraft and epoxy primer
Sand primer
Paint aircraft white
Add stripes to aircraft – basic design
Detail aircraft

Taxpayer provided a document titled, "[redacted]," for review as part of its TAA request. Agreement provides the following terms:

[redacted]

Taxpayer's Position

Taxpayer believes that its rental of hangar space for the purpose of painting/repairing aircraft should be taxed, under s. 212.031, F.S., and Rule 12A-1.070, F.A.C., at the reduced Florida sales tax rate that began in 2018, and such rental is no longer subject to Florida sales and use tax effective October 1, 2025.

Law and Discussion

Section 212.03(6), F.S, provides in pertinent part that "every person . . . who leases or rents tie-down or storage space for aircraft at airports is engaging in a taxable privilege." For the exercise of this privilege, tax is levied at the rate of six percent (6%), plus any applicable sales surtax. The language of the statute indicates that the taxable transaction is the lease or rental of "tie down . . . space" or "storage space" for aircraft. Although the leased real property is located on airport property, the facts provided indicate that taxpayer does not lease the space in question for either aircraft tie-down or aircraft storage. Rather, the property is utilized to conduct its business of painting aircraft (and associated services). Accordingly, the lease is not subject to tax pursuant to s. 212.031, F.S.

Unless specifically exempt, every person who engages in the business of renting, leasing, letting, or granting a license for the use of any real property is exercising a taxable privilege. For the exercise of such privilege, a tax is levied on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under s. 212.031, F.S. *See* s. 212.031 (1)(a) and (c), F.S. and Rule 12A-1.070, F.A.C. It is clear on the facts provided that the payments made by Taxpayer under its lease agreement with the [redacted] would be taxable under s. 212.031, F.S. However, the Florida Legislature has repealed the tax on the rental of commercial real property that was imposed by s. 212.031, F.S., effective October 1, 2025 (see s. 37, ch. 2025-208, L.O.F.). This means no state sales tax or discretionary sales surtax applies to rent or license fees for rental or occupancy periods beginning on or after October 1, 2025.

For periods prior to the effective date of the repeal, the rates of Florida sales tax applicable to the lease were: (i) two percent (2%) effective June 1, 2024; four and a half percent (4.5%) effective December 1, 2023; and (iii) five and a half percent (5.5%) effective January 1, 2020. The tax and applicable discretionary sales surtax for periods prior to repeal apply to each lease period regardless of when payment was received. See Florida Revenue Commission v. Maas Brothers, Inc., 226 So. 2d 849, 853 (Fla. 1st DCA 1969).

Refunds

Section 215.26, F.S., and Rule 12A-1.014(4) F.A.C., *Refunds and Credits for Sales Tax Erroneously Paid*, authorize a refund, within 3 years from the date the tax was paid, under certain circumstances, provided the customer paid the tax directly to the Department or the customer has secured an assignment from the selling dealer to whom the tax was paid. The assignment of rights provides that the dealer assigns any right the dealer has to recover sales tax paid to the Department. For circumstances in which an assignment of rights is required, please use Form DR-26A, Assignment of Rights to Refund of Tax (Assignment of Rights to Refund of Tax (Form DR-26A).

The party requesting a refund must file an Application for Refund – Sales and Use Tax Only, Form DR-26S, https://floridarevenue.com/Forms_library/current/dr26s.pdf with the Department.

The three statutory circumstances for issuing a refund are (i) an overpayment of tax, (ii) payment when no tax is due, and (iii) a payment of tax made in error.

In summary, where there has been a payment of sales tax when no sales tax is due or in error, Lessor must first refund to Taxpayer any sales tax that was paid in error before Lessor can file for a sales tax refund with FDOR. Alternatively, Taxpayer can secure an assignment of rights from Lessor and apply to FDOR directly for a refund. The application for refund must be postmarked within 3 years from the date the sales tax was paid.

Conclusion

Based on the facts and documentation provided, it appears that Taxpayer rents hangar space for the **sole purpose** of painting/repairing aircraft, and Taxpayer does not rent hangar space for the parking or storage of aircraft. Accordingly, the tax imposed under the provisions of s. 212.03(6), F.S., does not apply. The tax imposed pursuant s. 212.031, F.S., would apply. However, Therefore, effective October 1, 2025, no state sales tax or discretionary sales surtax applies to rent, lease, or license fees for rental or occupancy periods beginning on or after October 1, 2025. For periods prior to October 1, 2025, the tax levied pursuant to s. 212.031, F.S., tax applies to payments made by Taxpayer to the [redacted] at the various rates specified above, plus applicable discretionary sales surtax.

To pursue a refund of any sales tax paid in error, please refer to the discussion under the title, **Refunds**, above.

This response constitutes a TAA under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for TAA, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850)717-6363.

Sincerely,

Leigh L. Ceci

Leigh L. Ceci, MAcc
Tax Law Specialist
Office of Technical Assistance

Record ID: 7001562366

Office of Technical Assistance Satisfaction Survey

The Florida Department of Revenue invites you to complete the online Office of Technical Assistance Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Office of Technical Assistance. To access the survey, place the following address in your browser's access bar:

https://tadr.questionpro.com

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7001562366

Respondent code: 44

Tax type: Sales and Use Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.