

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-15, FLORIDA ADMINISTRATIVE CODE
DISCRETIONARY SALES SURTAX
AMENDING RULES 12A-15.001, 12A-15.003, 12A-15.008, 12A-15.012, and 12A-15.014
REPEALING RULE 12A-15.002

12A-15.001 Scope of Rules.

(1) No change

(2) The list of counties levying the surtax is subject to frequent revision. An up-to-date listing of counties levying the surtax is available, without cost, by one or more of the following methods: 1) downloading Form DR-15DSS, Discretionary Sales Surtax information, updated annually, the appropriate Sales Tax Bracket Cards from the Department's website at ~~www.floridarevenue.com/taxes/rates~~; or, 2) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112, ~~or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.054(2), (4) FS. History--New 12-11-89, Amended 11-16-93, 11-1-05, XX-XX-XX.

12A-15.002 Surtax Brackets.

Rulemaking Authority 212.12(11), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9), (10), (11) FS. History--New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, 11-1-05, 6-1-09, Repealed XX-XX-XX.

12A-15.003 Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax.

(1) through (3) No change

(4) SALES OF TANGIBLE PERSONAL PROPERTY.

(a) A dealer who makes sales of tangible personal property, including tangible personal property sold through a marketplace or by remote sale, is required to collect surtax when the taxable item of tangible personal property is delivered within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the delivery occurs, whether the delivery is made directly by the dealer or by a manufacturer or wholesaler who delivers the property to the purchaser on behalf of the dealer. When the item of tangible personal property is delivered within a county not imposing a surtax, the dealer is not required to collect surtax.

1. through 3. No change

(b) through (c) No change

~~(5) MAIL ORDER SALES.~~

~~(a) A dealer who makes mail order sales, as defined in rule 12A 1.103, F.A.C., is required to collect surtax at the rate imposed by the surtax county where the taxable item of tangible personal property is delivered when:~~

~~1. The mail order is placed through a dealer's location within a surtax county and received by the dealer in another state; and,~~

~~2. The item is delivered to a location within a surtax county.~~

~~(b)1. Example: A multi state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail order division at the dealer's location in County A (a county imposing a 1% surtax). The out-of-state mail order division ships the merchandise to purchaser's residence in County B (a county not imposing a surtax). Although the company has stores within a surtax county and the order is placed through the dealer's location within a surtax county, the item is not delivered within a surtax county. The selling dealer is not required to collect surtax.~~

~~2. Example: A multi state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail order division at the dealer's location in County A (a county imposing a 1% surtax). The mail order division ships the item to a residence in County B (a county imposing a 1/2% surtax). The transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the merchandise at the rate of 6 1/2% (6% state tax and 1/2% surtax).~~

(6) though (9) No change; renumbered (5) through (8)

(9) ~~(10)~~ USE TAX.

(a) Any person who is not required to be a registered dealer but who owes use tax on tangible personal property purchased out-of-state, in another country, or through a remote sale ~~mail-order firms or the Internet~~ is not required to pay surtax when paying the applicable use tax to the Department.

(b) through (e) No change

Rulemaking Authority 212.0596(3), 212.18(2), 213.06(1) FS. Law Implemented 212.04(1), 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.06(1), (2), (4), (6), (8), (10), 212.07(8), 212.18(3), 212.183 FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01, 10-2-01, 4-17-03, 5-28-06, XX-XX-XX.

12A-15.008 Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax.

(1) LUMP SUM, COST PLUS, FIXED FEE, OR GUARANTEED PRICE CONTRACTS.

(a) No change

(b) A contractor or subcontractor who is not required to be a registered dealer and who owes use tax on taxable items of tangible personal property purchased out-of-state, in another country, or through a remote sale ~~mail-order firms or the Internet~~ for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract is not required to pay surtax when paying the applicable use tax to the Department.

(c) No change

(2) through (4) No change

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (16), (20), 212.054, 212.055, 212.06(1), 212.14(5) FS. History—New 12-11-89, Amended 5-12-92, 8-10-92, 11-16-93, 3-20-96, 4-17-03, XX-XX-XX.

12A-15.012 Alcoholic and Malt Beverages.

(1)(a) Alcoholic beverages, including beer, ale, and wine, are subject to surtax at the rate imposed by the county where the business is located.

(b) Except as provided in Rule 12A-1.112, F.A.C., a dealer will ~~The dealer shall~~ add the sales tax, plus the applicable surtax, to the sales price of each sale, and may not ~~The dealer is not permitted to~~ advertise or hold out to

the public in any manner that the dealer will pay all or absorb any part of the sales tax or surtax due or that the dealer will relieve the purchaser from the payment of sales tax or surtax.

(b) No change; renumbered (c)

(2) through (3) No change

Rulemaking Authority ~~212.07(2)~~, 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(16)~~, 212.054, 212.055, 212.07(2), (4), 212.08(4), ~~212.12(11)~~, ~~212.15(1)~~, (4) FS. History—New 12-11-89, Amended 3-20-96, 6-19-01, 11-1-05, 6-1-09, XX-XX-XX.

12A-15.014 Transition Rule.

(1) No change

(2) Commercial Rentals. Prepayments of rents to avoid increased tax rate are prohibited. Tenants with leases in effect prior to the effective date of any such surtax which provide for payments to be made on and after the effective date of any such surtax, cannot avoid tax by prepaying rent prior to the effective date of the surtax. Commercial rentals will be taxed pursuant to Section 212.031, F.S., at 5.5% plus the surtax rate for all rentals due on or after the effective date of any such surtax.

(3) No change

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.031, 212.05(1), 212.05011, 212.054, 212.055 FS. History—New 12-11-89, Amended 11-16-93, 3-20-96, 10-2-01, 4-17-03, 1-17-18, 1-8-19, 12-12-19, XX-XX-XX.