

12A-15.001 Scope of Rules.

(1) For the purpose of administering the Discretionary Sales Surtax (referred to as the Surtax, or Tax), all rules relating to Sales and Use Tax (chapter 12A-1, F.A.C.) shall apply to the Surtax, except in those situations where rules relating to the Surtax have been issued to clarify specific statutory provisions.

(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, from the Department's website at 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. 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, 6-14-22.

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 History--New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, 11-1-05, 6-1-09, Repealed 6-14-22.

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

(1) SCOPE.

(a) Section 212.054, F.S., provides for the imposition of discretionary sales surtaxes levied by a governing body of any county, as authorized in section 212.055, F.S. This rule is intended to clarify the application of the surtaxes on admissions, sales and use of tangible personal property and services, leases, rentals, and licenses to use real property or transient accommodations, and other transactions.

(b) Rule 12A-15.0035, F.A.C. (Aircraft, Boats, Motor Vehicles, and Mobile Homes), governs the imposition of surtax on the sale, lease, rental, and use of any aircraft or boat that is required to be registered, licensed, titled, or documented in this state or by the United States Government and any motor vehicle or mobile home of a class or type that is required to be registered in this state.

(2) DEFINITION. For purposes of this rule, a “surtax county” means a county whose governing body levies a discretionary sales surtax pursuant to sections 212.054 and 212.055, F.S.

(3) ADMISSIONS. When the event for which a taxable admission is charged is held within a surtax county, surtax is due at the rate imposed by the county where the event occurs. The seller of the admission to an event is required to collect surtax on the sales price or actual value of the admission, as provided in section 212.04(1)(b), F.S., when the event is held within a surtax county.

(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. Example: A dealer in County A (a county not imposing a surtax) sells a washing machine to the purchaser, who takes possession of the washing machine at the dealer’s location in County A. The purchaser then takes the washing machine to a location within County B (a county imposing a 1% surtax). The sales transaction occurs in County A. The selling dealer is required to collect sales tax on the sales price of the washing machine at the rate of 6% and is not required to collect surtax. No surtax is due by the purchaser or the seller when the washing machine is taken to County B.

2. Example: A dealer in County A (a county imposing a 1% surtax) sells a washing machine to a purchaser and delivers the washing machine to a location in County B (a surtax county imposing a 1/2% surtax). The sales transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the washing machine at the rate of 6 1/2% (6% state sales tax and 1/2% surtax).

3. Example: A retail dealer of office equipment in County A (a county imposing a 1/2% surtax) sells office equipment to a customer in County B (a county imposing a 1% surtax). The retail dealer in County A has the out-of-state manufacturer of the office equipment deliver the equipment to the customer in County B. The transaction occurs in County B, where the delivery to the customer is made. The retail dealer in County A is required to collect sales tax and surtax on the sales price of the office equipment at the rate of 7% (6% state sales tax and 1% surtax).

(b) When a florist who takes the original customer order to sell tangible personal property is located within a surtax county, the florist is required to collect surtax at the rate imposed where the florist is located. Florists are not required to collect surtax when they deliver tangible personal property to a location within a surtax county for another florist who received the original customer order.

(c) The sale of subscriptions to a newspaper, newsletter, magazine, or other periodical that is delivered to the customer by a carrier or by means other than by mail, such as home delivery, is subject to surtax when delivery of the publication is made to a location within a surtax county. The sales of subscriptions to periodicals that are delivered to a customer by mail are exempt. See rule 12A-1.008, F.A.C., for the requirements to collect and remit sales tax on sales of periodicals and sales of subscriptions to periodicals.

(5) SERVICES.

(a) When a dealer sells a taxable service, and delivery of the service, or tangible personal property representing a taxable service, is made to a location within a surtax county, the dealer is required to collect surtax at the rate imposed in the county where the services are provided or where the tangible personal property representing the services is delivered. If there is no reasonable evidence of delivery of a service, the sale of a service occurs in the county in which the purchaser accepts the invoice for services

rendered.

(b)1. Example: A dealer in County A (a county not imposing a surtax) sells nonresidential cleaning services to a purchaser in County B (a surtax county imposing a 1% surtax) and performs those services at a location in County B. The service transaction occurs within County B. The selling dealer is required to collect sales tax and surtax on the sales price of the service at the rate of 7% (6% state sales tax and 1% surtax).

2. Example: A dealer in County A (a county imposing a 1/2% surtax) sells burglar monitoring services to a location in County B (a surtax county imposing a 1% surtax). The burglar monitoring service monitors the alarms at the purchaser's location in County B. The service transaction occurs within County B. The dealer is required to collect sales tax and surtax on the sales price of the service at the rate of 7% (6% state sales tax and 1% surtax).

3. Example: A dealer in County A (a county imposing a 1% surtax) sells armored car service to a bank in County B (a surtax county imposing a 1/2% surtax). The armored car service is provided to the bank's branches located in different counties and to the main bank. Under this example, the armored car service provider cannot reasonably allocate the service provided to each county. The main bank located in County B receives the invoice for services rendered. Therefore, the service transaction occurs within County B. The dealer is required to collect sales tax and surtax on the sales price of the services at the rate of 6 1/2% (6% state sales tax and 1/2% surtax).

(6) SERVICE WARRANTIES.

(a) Any dealer who receives consideration for the issuance of a service warranty from the agreement holder is required to collect surtax at the rate imposed by the county where the tangible personal property indemnified by the service warranty is delivered or located.

(b)1. Example: The person receiving consideration for a service warranty is located in County A (a county imposing a 1% surtax). The service warranty covers a refrigerator sold in County A and delivered in County B (a county imposing a 1.5% surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 7.5% (6% state sales tax and 1.5% surtax).

2. Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county imposing a 1% surtax). The service warranty covers a television located within County B (a county not imposing the surtax). The person receiving consideration for the service warranty is required to collect sales tax on the sales price of the service warranty at the rate of 6%. The person receiving the consideration is not required to collect surtax.

3. Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county not imposing a surtax). The service warranty covers a motor vehicle, and the resident address of the owner identified on the title document is located in County B (a county imposing a 1% surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 7% (6% state sales tax and 1% surtax).

(7) ELECTRIC AND GAS UTILITIES.

(a) When a dealer sells electricity or natural or manufactured gas to a consumer located within a surtax county, the dealer is required to collect surtax at the rate imposed by the county where the consumer is located. See rule 12A-1.060, F.A.C.

(b) Any dealer who provides electricity or natural or manufactured gas to consumers located within a surtax county is required to register for sales tax purposes in each surtax county in which its consumers are located.

(8) REAL PROPERTY AND TRANSIENT ACCOMMODATIONS.

(a) When real property that is leased, rented, or upon which a license for use is granted is located within a surtax county, surtax on the rental or license payment is due at the rate imposed within the surtax county.

(b) When any transient accommodation is located within a surtax county, surtax is due at the rate imposed within the surtax county.

(c) The owner of real property or a transient accommodation that is leased, rented, or upon which a license for use is granted or the owner's representative is required to collect surtax at the rate imposed by the surtax county where the real property or transient accommodation is located.

(9) 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 is not required to pay surtax when paying the applicable use tax to the Department.

(b) Any person who purchases tangible personal property and pays the selling dealer the applicable sales tax and surtax due at

the time of sale is not required to pay any additional surtax when the item of tangible personal property is later used within a surtax county imposing a surtax at a rate higher than the rate imposed at the time of sale.

(c) Any person, located within a surtax county, who owes use tax on newspapers, magazines, or other publications it produces for its own use or purchases without paying the applicable sales tax due is required to accrue and remit sales tax and surtax at the rate imposed by the surtax county where the publications are used. See rule 12A-1.008, F.A.C.

(d) A dealer who is registered with the Department and who is required to pay use tax directly to the Department shall pay surtax in the following manner:

1. When tangible personal property is purchased, leased, or rented outside Florida for use in a surtax county, the dealer is required to pay surtax at the rate imposed by the surtax county where the tangible personal property is used.

2. When a dealer is authorized by the Department to accrue use tax on the lease, rental, or license to use real property located within a surtax county, the dealer is required to pay surtax at the rate imposed by the surtax county where the property is located.

3. When a dealer is required to pay use tax on services and when the primary benefit of the service is used or consumed within a surtax county, the dealer is required to pay surtax at the rate imposed by that surtax county, as provided in subsection 12A-1.0161(2), F.S.

4. For surtax due on the fabrication of items of tangible personal property by real property contractors for use in performing contracts, see rule 12A-15.008, F.A.C.

(e)1. Example: A purchaser of tangible personal property in County A (a surtax county imposing a 1% surtax) has received authority from the Department to self-accrue and remit the state sales and use tax directly to the Department. The purchaser issues a copy of its direct pay permit to the seller of the property relieving the seller from the responsibility of collecting and remitting state sales tax on the transaction. The purchaser must self-accrue and pay sales tax and surtax at the rate of 7% (6% state use tax and 1% surtax).

2. Example: A dealer in County A (a surtax county imposing a 1% surtax) purchases office supplies from an out-of-state dealer that is not registered with Florida to collect sales tax. The purchasing dealer is required to pay use tax and surtax at the rate of 7% (6% state use tax and 1% surtax).

3. Example: A dealer purchases office supplies at the selling dealer's location in County A (a county not imposing a surtax) and takes possession of the supplies at the dealer's location. The dealer pays the applicable 6% sales tax to the selling dealer. The purchaser immediately transports the office supplies to the purchaser's business location in County B (a county imposing a 1% surtax). Florida sales tax has been properly collected on the office supplies, and no use tax is due; therefore, no additional surtax is due when the office supplies are used by the purchaser in the surtax county.

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, 6-14-22.

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) Contractors or subcontractors purchasing tangible personal property from a dealer for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract must pay the surtax to the selling dealer, when the property is delivered to a location within a county imposing the surtax. The surtax to be paid to the selling dealer is based on the rate imposed in the county where delivery of the tangible personal property is made. When the tangible personal property is delivered to a location within a county not imposing the surtax, no surtax is due.

(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 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)1. Contractors and subcontractors are required to pay use tax on the fabricated cost of items of tangible personal property they manufacture, produce, compound, process, or fabricate for their own use in performing contracts. When the contractor or subcontractor owes use tax on the fabricated cost of items manufactured, produced, compounded, processed, or fabricated for use at a manufacturing plant site located within a surtax county, the contractor or subcontractor is required to pay surtax on such fabrication cost. Labor incurred at the job site where the item will be incorporated into a real property improvement or transportation from the plant where an item was fabricated to the job site is not subject to tax or surtax. See Rule 12A-1.043, F.A.C., for determining fabrication cost.

2. Contractors who pay sales tax to vendors for direct materials that are incorporated into fabricated items of tangible personal property are not required to pay use tax on the cost of those materials. Contractors who are registered as dealers may elect either to pay sales tax to their vendors on direct materials or to extend a copy of their Annual Resale Certificate and accrue use tax when the materials are used for fabrication. If sales tax is paid on the purchase of direct materials at the time of purchase, the county of delivery determines whether surtax is due. If use tax is accrued at the time of fabrication of the items, the surtax must also be accrued when the fabrication occurs within a county imposing a surtax.

3. Contractors and subcontractors who are located within a county imposing a surtax, and who have elected and have been authorized by the Department to use an alternate tax calculation method, must compute the surtax on the appropriate percentage of the contract price at the same time and in the same manner in which use tax is computed.

4. The \$5,000 limitation is applicable to the fabricated cost when the written contract or agreement specifies the particular project for which the fabricated item of tangible personal property is to be used.

5. Example: A contractor operates a roofing tile manufacturing plant in a surtax county. The contractor sells roofing tiles, as well as uses roofing tiles in performing real property contracts. The contractor is a registered dealer and purchases raw materials tax exempt by extending a copy of the dealer's Annual Resale Certificate. The contractor enters a contract to furnish materials and install a tile roof for \$15,000. The direct materials cost is \$5,000 and the other taxable fabrication costs are \$3,000, for a total of \$8,000 on which use tax must be accrued. The contractor must accrue sales tax and surtax, because the fabrication occurs at the plant located within a surtax county. If roofing contractors were permitted to accrue use tax on 40 percent of the contract price, use tax would be due on \$6,000, because the fabrication occurred at the plant located within a surtax county. Whether the contractor computes use tax on \$8,000 actual cost or on \$6,000 on a percent of contract price basis, surtax only needs to be accrued on \$5,000, because the fabricated tangible personal property is identified to the specific contract.

(2) RETAIL SALE PLUS INSTALLATION CONTRACTS. Contractors or subcontractors performing contracts where the contractor or subcontractor agrees to sell specifically described and itemized materials and supplies at an agreed price or at the regular retail price and to complete the work either for an additional agreed price or on the basis of time consumed, are required to register as dealers. They must collect surtax from customers on the sales price of the materials when the materials are delivered to a county imposing the surtax at the rate imposed by that county.

(3) The application of surtax to sales, fabrication, use, consumption, distribution, or storage of tangible personal property to or by contractors or subcontractors shall be determined on the basis of the date of each invoice for such sales, the date such fabrication occurred, or the date of importation for use, consumption, distribution, or storage. The date the written contract was entered into, the date of the oral contract, or the date of the purchase order does not determine the application of the surtax.

(4)(a) In the case of written contracts executed (signed) prior to the effective date of any surtax, for the repair, alteration, improvement, remodeling, or construction of real property, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor responsible for the performance of the written contract signed prior to the effective date of

any such surtax may apply for one refund per contract of any such surtax paid by the contractor responsible for the performance of the contract on materials necessary for the completion of the contract.

(b) To receive the refund, the contractor responsible for the performance of the contract must file an Application for Refund-Sales and Use Tax (form DR-26S), incorporated by reference in Rule 12-26.008, F.A.C. Such application for refund shall be made no later than 15 months following the initial imposition of the surtax in the county in which the transaction subject to the initial imposition of the surtax occurred.

(c) The contractor must submit the information as provided in subparagraphs 1. through 5., with the Application for Refund-Sales and Use Tax (form DR-26S). Upon approval of a completed application, the Department shall, within 30 days, certify to the county or counties information necessary for issuance of a refund directly to the applicant of said taxes. Counties are authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due.

1. A copy of the bidding instructions, a signed copy of the original contract, and a copy of the general and specific provisions of the contract.

2. A summary schedule of material invoices related to the contract in which the tax was paid to a vendor or accrued by the contractor. The summary schedule shall reflect the county where the selling dealer is located, invoice date, invoice number, vendor's name, amount of refund claimed on taxes paid to vendor, amount of refund claimed on taxes accrued by the contractor, and total amount of the refund claimed.

3. Contractors who operate manufacturing plants which make items of tangible personal property for their own consumption and use in performance of contracts for the construction or improvement of real property must supply, in addition to the contract documents enumerated in sub-subparagraph a. above, a summary schedule by county identifying the manufactured cost on which tax has been accrued and remitted to this state. The summary schedule shall reflect by month and year the amount of raw materials, as well as an itemization by type and amount of other manufactured costs, such as labor, power, transportation-in, and other related plant expenses, on which tax was accrued and remitted to this state.

4. In those instances where a contractor operates in the manner outlined in subparagraph 3. above, but pays tax to its vendors on part of the raw materials and purchases the remainder of the raw materials tax exempt, the contractor shall furnish, in addition to the contract documents enumerated in subparagraph 1. above, a summary schedule by county of material invoices that is required in subparagraph 2. above, on materials for which tax was paid to vendors and a summary schedule by county identifying the manufactured cost on which tax has been accrued and remitted to this state in the form required in subparagraph 3. above.

5. Any other information that is required by the Department of Revenue in order to verify the authenticity of the refund application.

(d) Any person who fraudulently obtains or attempts to obtain a refund not permitted by law, in addition to being liable for payment of any refund fraudulently obtained plus a mandatory penalty of 100% of the refund, is guilty of a felony of the third degree, punishable as provided in Section 775.082, 775.083, or 775.084, F.S.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 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, 6-14-22.

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 Section 212.07(4), F.S., a dealer will add the sales tax, plus the applicable surtax, to the sales price of each sale, and may not advertise or hold out to the public in any manner that the dealer will pay all or 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.

(c) In some instances, it may be impractical for dealers who sell package goods, mixed drinks, or a combination of package goods and mixed drinks to separately itemize the sales price of the beverage and the tax. In such cases, a dealer is required to remit tax in accordance with one of the methods outlined below, and the dealer's records must substantiate the method chosen.

(2) DEALERS WHO DO NOT SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, does not put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

County Surtax Tax	Effective Tax Rate
No Surtax	.0635
1/4%	.0656
1/2%	.0677
3/4%	.07035
1%	.0730
1 1/4%	.0753
1 1/2%	.0776
1 3/4%	.0799
2%	.0822

2. Example: A package store located in a county imposing surtax at the rate of 1 1/2% that does not sell mixed drinks and whose total gross receipts are \$2,000 would multiply \$2,000 by .0776 to compute tax due of \$155.20. This is the amount of sales tax, plus surtax, due.

(b)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide the total gross receipts by the following divisors to compute taxable sales:

County Surtax Rate	Divisor
No Surtax	1.0635
1/4%	1.0656
1/2%	1.0677
3/4%	1.07035
1%	1.0730
1 1/4%	1.0753
1 1/2%	1.0776
1 3/4%	1.0799
2%	1.0822

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

2. Example: A package store located in a county imposing a surtax at 1 1/2% that does not sell mixed drinks and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0776 to compute taxable sales of \$1,855.98. The store would subtract \$1,855.98 from \$2,000 to compute \$144.02 tax due. This is the amount of sales tax, plus surtax, due.

(3) DEALERS WHO SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and does NOT put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of mixed drinks and package goods by the following effective

tax rates to compute the amount of sales tax, plus surtax, due.

County Surtax Tax	Effective Tax Rate
No Surtax	.0659
1/4%	.0678
1/2%	.0697
3/4%	.0724
1%	.0751
1 1/4%	.0773
1 1/2%	.0795
1 3/4%	.0817
2%	.0839

2. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both mixed drinks and package goods and whose total gross receipts are \$2,000 would multiply \$2,000 by .0751 to compute tax due of \$150.20. This is the amount of sales tax, plus surtax due.

(b)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide total gross receipts by the following divisors to compute taxable sales:

County Surtax Rate	Divisor
No Surtax	1.0659
1/4%	1.0678
1/2%	1.0697
3/4%	1.0724
1%	1.0751
1 1/4%	1.0773
1 1/2%	1.0795
1 3/4%	1.0817
2%	1.0839

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

2. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both mixed drinks and package goods and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0751 to compute taxable sales of \$1,860.29. The dealer would subtract \$1,860.29 from \$2,000 to compute \$139.71 tax due. This is the amount of sales tax, plus surtax, due.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.07(2), (4), 212.08(4) FS. History—New 12-11-89, Amended 3-20-96, 6-19-01, 11-1-05, 6-1-09, 6-14-22.

12A-15.014 Transition Rule.

(1)(a) Accrual basis accounting recognizes the sales date as the invoice date. At the time the invoice is prepared, accounts receivable will be increased with a corresponding entry to increase the sales accounts. Thus, for sales, purchases, and rentals of tangible personal property, the Department will be guided by the invoice date to determine if the surtax is applicable for transactions prior to the effective date of any such surtax, or if the surtax is applicable to transactions during the period the surtax is levied. Cash sales will be subjected to the surtax if the transaction occurs on or after the effective date of any such surtax.

(b) The Department will recognize the state sales and use tax rate as the appropriate tax rate, if the state sales and use tax is included in the tax return, for sales invoices dated and recorded reflecting total income through the sales accounts, prior to the effective date of any such surtax, provided the goods or services are delivered within the customary period for the particular type of firm. Delivery within 45 days of the sales invoice date may be utilized for auditing purposes during this transition period to support a normal delivery period.

(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., plus the surtax rate for all rentals due on or after the effective date of any such surtax.

(3) Electric Utilities; Natural or Manufactured Gas; Fuel Oil.

(a) Electric utilities and sellers of gas and fuel oil normally bill their customers after the period of service. The 6.95% tax rate plus the surtax rate will apply to billing cycles, which includes services billed for cycles ending on or after the effective date of any such surtax.

1. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 1, 1994, through December 31, 1994, and the service cycle billing is mailed to customer on January 5, 1995, the surtax does not apply.

2. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 10, 1994, through January 10, 1995, and the service cycle billing is mailed to customer on January 15, 1995, the surtax applies.

(b) Where service periods or cycles are not noted on the bill to the customer, the invoice or billing date would determine the applicable tax rate. In the cases of electric, gas, and fuel oil, billing cycles are from the most current meter reading to the previous meter reading.

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, 6-14-22.