

12A-16.002 Imposition and Payment of the Surcharge.

(1) Definitions. For the purposes of this rule chapter, the following definitions will apply.

(a) The term “car-sharing service” has the same meaning as provided in Section 212.0606, F.S.

(b) The term “day” means 24 consecutive hours.

(c)1. The term “for-hire passenger motor vehicle” means a motor vehicle designed to carry fewer than nine passengers and is leased or rented for financial consideration without transfer of title, regardless of whether the motor vehicle is registered in Florida.

2. The term does not include any motorcycle, moped, truck, truck trailer, travel trailer, camping trailer, recreational vehicle with living facilities, or van conversion.

3. “For-hire passenger motor vehicles” are rented or leased through a motor vehicle rental company or available for use by members of a car-sharing service.

(d) The term “motor vehicle rental company” has the same meaning as provided in Section 212.0606, F.S.

(e) The term “peer-to-peer car-sharing program” has the same meaning as provided in Section 627.7483(1), F.S.

(f)1. The term “shared vehicle” means a motor vehicle that is designed to carry fewer than nine passengers for consideration without transferring the title and is registered in Florida.

2. The term does not include for-hire motor vehicles, as defined in paragraph (c), or motor vehicles used for ridesharing or carpools.

3. Shared vehicles are offered for use through a peer-to-peer car-sharing program.

(2) Under Section 212.0606(2), F.S., a surcharge of \$2.00 per day or any part of a day is imposed upon the lease or rental of a for-hire passenger motor vehicle by a motor vehicle rental company. The surcharge must be collected by the motor vehicle rental company.

(a) The surcharge applies to the first 30 days of the lease or rental of a for-hire passenger motor vehicle.

(b) When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental.

(c) When the terms of a lease or rental agreement require the lessee to execute an additional lease or agreement or require any action on the part of the lessor, the additional days during the extension period will be considered a new lease or rental.

(d) The surcharge imposed upon the lease or rental of a for-hire passenger motor vehicle is subject to sales tax and discretionary sales surtax.

(3)(a) Under Section 212.0606(3), F.S., a surcharge of \$1.00 per day or any part of a day is imposed upon each peer-to-peer car-sharing program agreement involving a shared vehicle under Section 212.0606(3), F.S. The surcharge must be collected by the peer-to-peer car-sharing program.

(b) If the car-sharing period is less than 24 hours, then the surcharge is \$1.00 per use.

(c) The surcharge applies to the first 30 days of a car-sharing period.

(d) The surcharge imposed upon a peer-to-peer car-sharing agreement is subject to sales tax and discretionary sales surtax.

(4)(a) Under Section 212.0606(4), F.S., a surcharge of \$1.00 per usage is imposed when the for-hire passenger motor vehicle is used for less than 24 hours by a member of the car-sharing service. The surcharge must be collected by the car-sharing service.

(b) If the member uses the same motor vehicle for 24 hours or more, then the surcharge is \$2.00 per day or any part of a day the motor vehicle is used.

(c) The surcharge does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or an airport authority.

(5)(a) Motor Vehicle Leased or Rented by a Motor Vehicle Rental Company or through a Peer-to-Peer Car-Sharing Program for Less Than 12 Months.

1. When a for-hire passenger motor vehicle is leased or rented in Florida, the lease or rental is subject to the rental car surcharge, even though the vehicle may be driven to another state or the lease or rental payment is made outside Florida.

2. When a for-hire passenger motor vehicle is leased or rented outside Florida, the lease or rental is not subject to the rental car surcharge, even though the vehicle may be driven into Florida or the lease or rental payment may be made in Florida.

(b) Motor Vehicle Leased or Rented for 12 Months or Longer.

1. When a for-hire passenger motor vehicle is leased or rented in Florida for a term of 12 months or longer, the rental car surcharge is due for the first 30 days.

2. When a for-hire passenger motor vehicle is leased or rented outside Florida for a term of 12 months or longer and the vehicle is registered, licensed, or titled in Florida, it is presumed subject to the rental car surcharge. This presumption may be rebutted only by documentary evidence that the vehicle was used outside Florida continuously for the first 30 days before being brought into Florida.

(6)(a) The surcharge is due as follows:

1. When the lease or rental payments are made to a motor vehicle rental company under the terms of the lease or rental agreements.

2. When payment for the usage of a shared vehicle is collected pursuant to a peer-to-peer car-sharing program agreement.

3. Per use of a motor vehicle through a car-sharing service regardless of payment or payment plans for membership or access to motor vehicles.

(b) The amount of the rental car surcharge is required to be separately stated on any charge ticket, invoice, or other tangible evidence of lease or rental and will be a debt from the lessee or renter to the dealer until paid.

(c) The surcharge does not apply to a for-hire passenger motor vehicle or shared vehicle when a replacement vehicle is provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

(7) Any lessee who has leased or rented a for-hire passenger motor vehicle under the terms of a lease or rental agreement or car-sharing service membership or entered into a peer-to-peer car-sharing agreement and cannot prove that the rental car surcharge has been paid will be directly liable to the state for the surcharge and any interest or penalty due.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(c), 212.06(1)(a), 212.0606, 212.07(2), (4), (8) FS. History—New 11-14-89, Amended 7-7-91, 5-19-93, 3-20-96, 9-28-04, 7-28-15, 5-23-22.

12A-16.004 Registration.

(1) Every person who operates a car-sharing service, a peer-to-peer car-sharing program, or motor vehicle rental company must register with the Department as a dealer for the purposes of remitting the rental car surcharge.

(a) Motor vehicle rental companies are required to register each place of business located in Florida.

(b) Car-sharing services and peer-to-peer car-sharing programs are required to submit a registration application for each county in which business is conducted.

(2)(a) Registration is available by using one of the following methods

1. Completing a Florida Business Tax Application through the Department's website at floridarevenue.com/taxes/registration.

2. Submitting Form DR-1, Florida Business Tax Application (incorporated by reference in Rule 12A-1.097, F.A.C.), as indicated on the form.

(b) If a business previously submitted Form DR-1 and holds an active certificate of registration or reemployment tax account, the business may use Form DR-1A, Application for Registered Businesses to Add a New Florida Location (incorporated by reference in Rule 12A-1.097, F.A.C.), in the following circumstances.

1. To register an additional business location.

2. To update a registered location that has moved from one Florida County to another.

(c) Specific registration requirements for sales tax purposes are outlined in Rule 12A-1.060, F.A.C.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.18(3) FS. History—New 11-14-89, Amended 8-10-92, 3-21-95, 6-19-01 4-17-03, 11-6-07, 1-17-18, 3-25-20, 5-23-22.

12A-16.005 Exemption Permits, Certificates, and Affidavits.

(1) The lease or rental of a for hire passenger motor vehicle or shared vehicle directly to an entity that holds a valid Consumer's Certificate of Exemption (Form DR-14) issued by the Department is exempt. Direct pay permits, exemption, certificates, and exemption affidavits required to be issued to lease or rent a vehicle exempt from sales and use tax shall satisfy the requirements of the exemption from the surcharge. However, if a permit, certificate, or affidavit is issued by the lessee or renter at the time of the lease or rental in lieu of surcharge, and the lessee makes a taxable use of the motor vehicle, the lessee or renter is required to remit the surcharge directly to the Department.

(2) Where a person registered for sales tax has obtained written consent from the Department of Revenue to assume the obligation of remitting sales and use tax to the State, and has issued a statement relieving the leasing dealer from the responsibility of collecting said tax, such person is required to remit the surcharge.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.06(1), 212.0606, 212.12, 212.18(3), 212.183 FS. History—New 11-14-89. Amended 6-19-01, 5-23-22.

12A-16.006 Surcharge Returns and Filing Requirements.

(1)(a) Except as provided in rule Chapter 12-24, F.A.C., the surcharge for each month is due to the Department on the first day of the month following the date the lease or rental payments are to be made by the lessee or renter under the terms of the lease or rental agreement, or on the first day of the month following the date the membership usage fees are billed to the member of a car-sharing service. The payment and return must be delivered to the Department or be postmarked on or before the 20th day of the month following the date the lease or rental payments or membership usage fees are billed to the lessee, renter, or the member of a car-sharing service to avoid penalty and interest for late filing. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, a legal holiday means a holiday which is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) The rental car surcharge is required to be reported to the Department on a Solid Waste and Surcharge Return (Form DR-15SW). A Schedule of Rental Car Surcharge by County (Form DR-15SWS) is used to report the surcharge attributed to each county. Forms DR-15SW and DR-15SWS are incorporated by reference in Rule 12A-16.008, F.A.C. The surcharge is attributed to the county:

1. Where the lessee picks up the for hire passenger motor vehicle, if the motor vehicle is picked up in Florida and is leased or rented for less than 12 months; or

2. Where the residence address of the lessee identified on the registration, license, or title is located, if the motor vehicle is leased or rented for 12 months or longer.

3. The rental car surcharge for the use of a shared vehicle through a peer-to-peer car-sharing program is attributed to the county corresponding to the location of the motor vehicle at the car-sharing start time.

(c) Any dealer who operates places of business in two or more counties for which returns are required and who has obtained a consolidated filing number from the Department for purposes of reporting sales and use tax must report the rental car surcharge for all places of business using the consolidated filing number. The dealer is required to file a consolidated Solid Waste and Surcharge Return (Form DR-15SW) with a Schedule of Rental Car Surcharge by County (Form DR-15SWS) to report the surcharge attributed to each county.

(d) Any dealer who operates two or more places of business in a single county for which returns are required and who has obtained a county control reporting number from the Department for purposes of reporting sales and use tax must report the rental car surcharge for all places of business located within a single county using the county control reporting number. Such dealers are reporting the rental car surcharge attributed to that county and are not required to file a Schedule of Rental Car Surcharge by County (Form DR-15SWS).

(e) Out-of-state dealers who have no physical place of business located within Florida that are required to report the rental car surcharge must file a Solid Waste and Surcharge Return (Form DR-15SW) with a Schedule of Rental Car Surcharge by County (Form DR-15SWS) to report the surcharge attributed to each county. The Schedule of Rental Car Surcharge by County must be included with the return even when the dealer reports the number of days that all for hire passenger motor vehicles were leased or rented during the month for a single county.

(f) For information on how to obtain a county control reporting number or a consolidated filing number for purposes of sales and use tax, see subsection (1) of Rule 12A-1.056, F.A.C.

(g) Each dealer is required to file a return each month, even when no rental car surcharge is due for that month. However, a dealer is not required to file a Schedule of Rental Car Surcharge by County (form DR-15SWS) when no rental car surcharge is due for that month.

(h) Electronic filing of payments and returns for reporting the rental car surcharge must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the rental car surcharge is required to be made by electronic means;
2. Any return for reporting the rental car surcharge is required to be submitted by electronic means; or
3. No fees are due with a return for reporting the rental car surcharge.

(2) Persons who are required to make a return or to pay the rental car surcharge and fail to do so will be subject to penalties, as

provided in Section 212.12(2), F.S., and to the interest imposed on deficiencies established under Section 213.235, F.S. and Rule 12-3.0015, F.A.C. Guidelines are provided in subsection (4) of Rule 12A-1.056, F.A.C.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.11, 212.12(2), (3), (4), 213.235, 213.755 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 5-19-93, 3-20-95, 3-20-96, 4-2-00, 4-17-03, 9-28-04, 7-28-15, 5-23-22.

12A-16.008 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the rental car surcharge, as provided in this rule chapter, and the solid waste fees, as provided in rule Chapter 12A-12, F.A.C. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department’s website at floridarevenue.com/forms; or, 2) calling the Department at (850)488-6800, Monday through Friday (excluding holidays); or, 3) 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).

Form Number	Title	Effective Date
(2) DR-15SW	Solid Waste and Surcharge Return (R. 01/15) http://www.flrules.org/Gateway/reference.asp?No=Ref-05594	07/15
(3) DR-15SWN	Instructions for DR-15SW Solid Waste and Surcharge Returns http://www.flrules.org/Gateway/reference.asp?No=Ref-14234	01/22
(4) DR-15SWS	Schedule of Rental Car Surcharge by County http://www.flrules.org/Gateway/reference.asp?No=Ref-14235	01/22

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, 4-17-03, 9-28-04, 6-28-05, 7-25-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 1-12-11, 1-25-12, 1-20-14, 7-28-15, 4-16-18, 1-1-21, 5-23-22.