

TIP 01BER-04

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EXEMPTIONS FROM THE COMMUNICATIONS SERVICES TAX

Beginning October 1, 2001, communications services, such as telephone, cable television, direct-to-home satellite, and fax services, are subject to the communications services tax instead of sales tax. Residential households, governmental entities, and certain nonprofit organizations are partially or entirely exempt from the communications services tax. Dealers and customers should be aware, however, that the exemptions for residential households and for nonprofit organizations under the new communications services tax differ from the sales tax exemptions that previously applied.

Are Residential Households Exempt from the Communications Services Tax?

SCOPE OF THE RESIDENTIAL EXEMPTION. There is an exemption from communications services taxes for residential households, but the exemption is limited regarding the taxes, services, and residential households that are exempt.

- * Taxes Subject to Exemption. The residential household exemption from communications services taxes applies only to the 6.8% state portion of the Florida communications services tax. Residential households are subject to the 2.37% gross receipts portion and the applicable local communications services tax rate.

- * Services Subject to Exemption. The residential household exemption applies to communications services **other than** cable, direct-to-home satellite, and mobile communications services. When purchased by residential customers, cable, direct-to-home satellite, and mobile communications services are subject to communications services taxes.

* Residential Households Subject to Exemption. A residential household is exempt unless it is a public lodging establishment licensed under Chapter 509, F.S., or is part of such a licensed public lodging establishment. A residential household in a public lodging establishment that is exempt from sales tax on purchases of electricity and other utilities taxable under Chapter 212, Florida Statutes, would be subject to communications services taxes on telephone and other communications services.

DEALER DOCUMENTATION OF RESIDENTIAL HOUSEHOLD EXEMPTION.

Communications services dealers are not required to collect and remit tax on sales of communications services when the service is sold at a rate based on a "residential schedule" under tariffs filed with the Public Service Commission, **unless** the purchaser notifies the dealer that the residential household exemption does not apply. The purchaser (the owner, operator, manager, or agent) of communications services for use in a licensed public lodging establishment must notify the communications services dealer that the services do not qualify for the residential household exemption so that the dealer can collect and remit communications services tax. If the dealer is not notified by the purchaser, the purchaser becomes liable for the tax due.

Are Governmental Entities Exempt from the Communications Services Tax?

SCOPE OF THE GOVERNMENTAL EXEMPTION. The following government entities are entirely exempt from all communications services taxes: the federal government, any agency or instrumentality of the federal government, any entity that is exempt from state taxes under federal law (such as federal credit unions or sovereign Indian tribes), the state, any county or municipality of the state, and any political subdivision of the state.

DEALER DOCUMENTATION OF GOVERNMENTAL EXEMPTION. Dealers can continue to rely upon a previously provided copy of the customer's Florida Consumer's Certificate of Exemption (form DR-14) identifying the customer as "federal", "state", "county", or "municipality". Alternatively, a dealer can rely on any writing

or document in the dealer's files that contains a representation by the customer that the communications services are being purchased by a governmental entity. Examples would be a customer application, a certificate, or a series of billing statements to the customer that identifies the customer as a governmental entity.

Are Nonprofit Organizations Exempt from the Communications Services Tax?

SCOPE OF THE NONPROFIT EXEMPTION. A nonprofit organization is entirely exempt from all communications services taxes **only if** the organization meets two requirements:

- * The organization must be a religious organization or an educational organization.

- * The organization must be exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Dealers and customers should refer to s. 212.08(7)(m) and (cc)8.a., F.S., for guidance defining the terms "religious organization" and "educational organization".

The communications services tax exemption for educational and religious organizations is narrower than the exemptions granted to nonprofit organizations for sales tax purposes. **Charitable organizations, even those with 501(c)(3) exemption status under the Internal Revenue Code, are not exempt from communications services taxes.**

DEALER DOCUMENTATION OF NONPROFIT EXEMPTION. Dealers can rely on a written certificate from a religious or educational 501(c)(3) organization that certifies that the organization qualifies for the exemption. (Dealers are **not** required to obtain a copy of an organization's 501(c)(3) determination letter.) A suggested exemption certificate format is provided as follows:

SAMPLE

EXEMPTION CERTIFICATE FOR PURCHASES OF

COMMUNICATIONS SERVICES BY
[RELIGIOUS/EDUCATIONAL] ORGANIZATION

DATE: _____

TO: _____ (Selling Dealer's Business Name)

_____ (Selling Dealer's Address)

I, the undersigned, am a representative of the exempt [religious/educational] organization identified below. The purchases of communications services made on or after _____ from the business identified above are for use by the exempt [religious/educational] organization identified below.

The charges for the purchases of communications services from the dealer identified above will be billed to and paid directly by the exempt [religious/educational] organization identified below. These purchases are exempt from the Florida communications services tax and the local communications services tax because the entity is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and is a ["religious organization"/"educational organization"] as that term is defined by the rules of the Department of Revenue.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

AUTHORIZED SIGNATURE ON BEHALF OF THE EXEMPT ORGANIZATION

PRINTED NAME OF AUTHORIZED SIGNATORY AND TITLE

NAME OF THE EXEMPT ORGANIZATION

ADDRESS OF EXEMPT ORGANIZATION

Statutes

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor. Or call Tax Information Services, 8:00 a.m., to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 (Florida only), or 850-488-6800.

Hearing- or speech-impaired persons should call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Tax Information Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.

To receive a fax copy of a form, call 850-922-3676 from your fax machine telephone.