

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-15 FLORIDA ADMINISTRATIVE CODE
DISCRETIONARY SALES SURTAX

AMENDING RULES 12A-15.003, 12A-15.004, 12A-15.005, 12A-15.007, AND 12A-15.014

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

(1) through (7) No change.

(8) ~~REAL PROPERTY AND~~ TRANSIENT ACCOMMODATIONS.

(a) When any transient accommodation ~~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.~~

~~(b)(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) through (c) No change.

(d) A dealer who is registered with the Department and who is required to pay use tax directly to the Department must ~~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.~~

~~2.3.~~ 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.

~~3.4.~~ 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.

11. through 3. 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., ss. 37, 40, 50, 54, Ch. 2025-208 LOF. 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-15.004 Specific Limitations.

(1) No change.

(2)(a) The surtax does not apply to the sales amount above \$5,000 on any item of tangible personal property. However, the surtax does apply to the first \$5,000 of the sales amount on the sale, use, lease, rental, or license to use any item of tangible personal property, including electric power or energy. The surtax applies, without limitation, to sales of admissions; sales and uses of services; sales of service warranties; charges for prepaid calling arrangements; leases, rentals, and licenses to use ~~real property or~~ transient accommodations; leases or rentals of parking or storage space for motor vehicles in parking lots or garages, docking or storage space in boat docks and marinas, and tie-down or storage space for aircraft; and all other transactions subject to the discretionary sales surtax.

(b) No change.

11. Example: A motor vehicle dealer sells a vehicle for \$12,000 to a purchaser whose address on the registration or title document is in a county imposing the surtax. The first \$5,000 of the sales amount is subject to the surtax and the amount over \$5,000 (i.e., \$7,000) is not subject to the surtax.

~~2. Example: A person leases real property subject to the state sales tax for \$10,000 a month. The entire monthly rental (i.e., \$10,000) is subject to the surtax since the \$5,000 limitation only applies to items of tangible personal property.~~

~~2.3.~~ Example: ABC, Inc., a consumer of electric power, is located within a county imposing the surtax. The consumer (a commercial account) receives a bill in the amount of \$6,700. The first \$5,000 of the sales amount is

subject to the surtax and the amount over \$5,000 (i.e., \$1,700) is not subject to the surtax.

34. No change.

(3) No change.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.02(15), (19), 212.05(1), 212.054, 212.055 FS., ss. 37, 40, 54, Ch. 2025-208 LOF. History—New 12-11-89, Amended 5-12-92, 3-17-93, 11-16-93, 10-2-01, 4-17-03, 2-20-25,_____.

12A-15.005 Permits, Certificates, and Affidavits.

(1) No change.

(2)(a) Where a purchasing dealer has obtained written consent from the Department of Revenue to assume the obligation of remitting the tax to the State, and has issued a statement relieving the selling dealer from the responsibility of collecting the tax, the purchasing dealer is required to remit the surtax based upon where the taxable transaction occurred.

~~(b)1. Example: If the real property which is leased or rented is in a county imposing the surtax the lessor, or other person receiving the rental consideration, is required to remit the surtax.~~

~~(b)2.~~ Example: If the purchaser is in a county imposing the surtax and the purchase or lease involves tangible personal property, the purchaser or lessee is required to remit the surtax.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.183 FS., ss. 37, 40, 54, Ch. 2025-208 LOF. History—New 12-11-89, Amended 5-12-92,_____.

12A-15.007 Records. Persons making sales and use of tangible personal property; charging admissions; furnishing electricity or natural or manufactured gas; ~~leasing or renting any real property~~; or leasing or renting any transient rental accommodations subject to the surtax must ~~shall~~ maintain adequate and sufficient books and records to indicate what sales and uses are subject to the surtax. The failure to maintain such records subjects ~~shall make~~ the total sales amount ~~subject~~ to the surtax.

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(6), 212.13(2) FS., ss. 37, 40, 54, Ch. 2025-208 LOF. History—New 12-11-89, Amended 10-2-01,_____.

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

~~(2)(3)~~ Electric Utilities; Natural or Manufactured Gas; Fuel Oil.

(a) through (b) 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., ss. 37, 54, Ch. 2025-208 LOF. 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,_____.