VOIP ...Is It Taxable?

The public is becoming more and more aware of Voice over Internet Protocol (VOIP), an alternative to the traditional telephone calling systems that we are all used to. A key issue related to VOIP is whether it is taxable in Florida as a communications service.

VOIP encompasses a broad range of voice transmission services, with the common characteristic being the use of Internet Protocol (IP) or similar internet-like protocols. Because VOIP is such a generic term, it is difficult to define. In the basic sense, it is simply a service that allows for voice transmissions over the Internet or other computer networks. This is different from the traditional public switched telephone networks (PSTN) that have been around since the advent of the telephone.

The definition of taxable "communications services" in Florida law is a broad one and encompasses most, if not all, of the services known as VOIP. Therefore, persons providing VOIP at retail in Florida are required to register with the Department of Revenue as dealers of communications services, and to maintain records of Florida sales and collect and remit communications services tax on retail taxable sales of VOIP.

Communications services tax background

To put the taxation issue into context, here is some background on the taxation of communications services in Florida. Beginning on October 1, 2001, legislation creating the Communications Services Tax (CST) Simplification Law became effective, imposing a communications services tax on the retail sale of communications services in Florida. Prior to that date, communications services sold in Florida were subject to a myriad of taxes including: state sales tax, local option tax, gross receipts tax, municipal public service tax, cable franchise fees, telecom franchise fees, and cable and telecommunications permit fees.

The previous taxes imposed on telecommunications and cable television services were replaced with the communications services tax. The Department of Revenue was given the responsibility by the Legislature for the administration of CST, thereby consolidating and simplifying providers’ reporting and filing requirements.

The new definition of taxable "communications services" in Section 202.11(2), Florida Statutes, was designed to encompass and accommodate change and emerging technologies. The law states: “...the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.”

This definition easily encompassed such familiar services as local and long distance telephone, cable television, satellite television, and mobile/cellular telephone services. However, for the purposes of the Florida communications services tax, the analysis regarding taxability is relatively simple – does the service being sold fall within the definition of “communications services” in s. 202.11(2), F.S.?

The voice transmission services referred to as VOIP fall within the definition of taxable “communications services” that has been in place in Florida since October 1, 2001. Indeed, because the definition of communications services expressly provides that the protocol used does not matter, whether a provider uses VOIP in the delivery of otherwise taxable services also does not matter.

In their 2005 session, the Legislature added a second sentence to the definition of communications services:

"...the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance."

VOIP, continued on page 2
Broward Restaurant Owners Arrested in NYC in $42,000 Florida Tax Theft Case

The owners of a Broward County restaurant were recently arrested in New York City on charges that they stole more than $42,000 in sales tax they collected from customers but failed to send in to the state, the Florida Department of Revenue announced.

Richard Sacks, 52, and Ella Sacks, 51, of Boca Raton, were arrested by the NYC Police Department on September 16, 2006, on felony charges relating to failure to pay tax. If convicted, they face up to 5 years in prison and up to $5,000 in fines, as well as possible repayment of stolen tax, interest, penalty and investigative costs.

The couple, both Canadian citizens, operated an Atlanta Bread Company restaurant at 301 Las Olas Boulevard, Ft. Lauderdale, Florida, which is now closed. The couple were detained and arrested while attempting to enter the U.S. from Canada.

According to Revenue Department investigators, Richard and Ella Sacks routinely collected tax from customers at the business. However, during various periods between August 2000 and June 2001, they failed to send in to the state all of the sales taxes that had been collected. Investigators found that the couple had illegally kept $42,626.07 in tax money. Under state law, sales tax is the property of the state at the moment of collection. Department of Revenue staff repeatedly visited and called the Sacks in an attempt to help them come into compliance with state tax law, but they failed to meet their legal obligations.

Substitute telecommunications systems

Substitute telecommunication systems had been taxable in Florida since 1985, when the Legislature revised its taxation of telecommunication services and added a tax on substitute systems. In general terms, the tax originally applied when a person provided his or her own telephone system or other telecommunication system as a substitute for a telephone company’s switched service. This provision was expanded to all substitute communications systems as a result of the restructuring of communications taxes in 2001. In 2005, the Florida Legislature repealed the application of Florida’s communications services tax to substitute communications systems. The repeal was made retroactive to October 1, 2001, the effective date of Florida’s new communications services tax. As part of that repeal, the Legislature clarified that VOIP was a taxable communications service.

Your Opinion Counts

We’d like to know what you think of the Facts on Tax publication. Please take our online survey after you have read this issue. The survey is short and should take only a minute or two to complete. Go to our Internet site at www.myflorida.com/dor/survey.html to begin. The survey for this issue will be available through August 30.

Sales Tax News

“To be fair, tax law must apply uniformly to all businesses,” said Jim Zingale, executive director of the Revenue Department. “This arrest demonstrates our commitment to ensure this occurs, whether the business owners are still in Florida or have left the state. Tax cheats steal money that the public pays to support vital public services, such as law enforcement and education. They also steal a competitive advantage over honest businesspeople who pay their taxes. The Department of Revenue cannot and will not allow this to occur.”

If you have information about tax theft, please call the Florida Department of Revenue investigations office in Coral Springs at 954-346-2850.

For more information on this story, call Renee Watters, 850-487-2747, or 850-694-0310 (cell).
Recently Enacted Tax Law Extends State Sales Tax Deduction

IRS Fact Sheet FS-2007-3, January 2007

The American Jobs Creation Act of 2004 gave taxpayers the option to claim state and local sales taxes instead of state and local income taxes when they itemize deductions. Under the law the option was available for the 2004 and 2005 returns only, but recent legislation has extended the availability of this deduction through 2007.

Because of the late passage of the Tax Relief and Health Care Act of 2006, the IRS was unable to include the sales tax tables in the Form 1040 instructions, as it did last year. Instead, the IRS has posted the tables to this Web site and is mailing six million copies of Publication 600 to taxpayers who are receiving a Form 1040 and instruction booklet in the mail.

Taxpayers claiming state and local sales tax should do so on line 5 of Schedule A (labeled state and local income taxes) and write the letters “ST” on the dotted line to the left of line 5.

IRS Publication 600, State and Local General Sales Taxes, helps taxpayers determine their sales tax deduction amount in lieu of saving their receipts throughout the year and deducting the actual amount of their sales taxes. Taxpayers use their income level and number of exemptions to find the sales tax amount for their state. The publication explains how to add an amount for local sales taxes if appropriate.

Taxpayers also may add to the table amount any sales taxes paid on:

• A motor vehicle, but only up to the amount of tax paid at the general sales tax rate; and
• An aircraft, boat, home (including mobile or prefabricated), or, in certain cases, a substantial addition to or major renovation of a home, if the tax rate is the same as the general sales tax rate.

For example, Washington State has a motor vehicle sales tax of 0.3 percent in addition to the state and local sales tax. A Washington State resident who purchased a new car could add the tax paid at the general sales tax rate to the table amount, but not the 0.3 percent motor vehicle sales tax paid.

While this deduction will mainly benefit taxpayers with a state or local sales tax but no income tax—in Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming—it may give a larger deduction to any taxpayer who paid more in sales taxes than income taxes. For example, you may have bought a new car, boosting your sales tax total, or claimed tax credits, lowering your state income tax.

One-Time Tax Refund Available to Long-Distance Phone Customers

FS-2007-1, January 2007

This year, telephone customers can request a one-time refund of taxes they paid on long-distance and bundled telephone service. Individuals, businesses and tax-exempt organizations can request this refund as a credit on their 2006 federal income tax returns.

Over 146 million individuals and more than 14 million businesses and tax-exempt organizations are expected to request the refund. This includes millions of people and organizations who don’t normally file returns, for example, low-income individuals (many of them senior citizens), churches and small charities. The government estimates that telephone excise tax refunds totaling $10 billion will be paid to individuals and another $5 billion to businesses and tax-exempt organizations.

The refund covers the three-percent tax paid on long-distance and bundled service billed after Feb. 28, 2003 and before Aug. 1, 2006. Several recent federal court decisions held that the tax does not apply to long-distance service as it is billed today. For that reason, the government stopped collecting the tax on service billed after July 2006 and authorized refunds of the taxes billed during the previous 41 months.

The federal excise tax continues to apply to local-only telephone service. Likewise, various state and local taxes and fees paid by telephone customers are unaffected and thus, not eligible for the refund.

Federal long-distance excise taxes paid on land line, cell phone, fax and Voice over Internet Protocol (VOIP) service qualify for the refund. This includes bundled service — local and long-distance service provided under a plan that does not separately list the charge for local service. Bundled service includes, for example, phone plans that provide both local and long-distance service for either a flat monthly fee or a charge that varies with the time for which the service is used.

Taxpayers can base their refund requests on the actual amount of tax paid. To do this, they must fill out Form 8913, Credit for Federal Telephone Excise Tax Paid. Individuals and businesses should attach it to their regular 2006 income-tax returns. Tax-exempt organizations should attach it to Form 990-T.

But many people don’t want to dig through 41 months of old phone bills or lack the records they need to figure the actual amount of tax paid. For that reason, the government created a standard amount that individuals can use to request the telephone excise tax refund. The amount is based on the number of personal and dependency exemptions an individual is eligible to claim on their tax returns. The standard amounts are:

• One exemption — $30
• Two exemptions — $40
• Three exemptions — $50
• Four exemptions — $60

One-Time Tax Refund, continued on page 4
You May Now Elect to Donate Your Collection Allowance to the “Educational Enhancement Trust Fund for Classroom Technology”

Sales and use tax dealers who are entitled to a collection allowance may now elect to donate their collection allowance to the Educational Enhancement Trust Fund. The revenues deposited into this trust fund will go to the school districts that have adopted resolutions stating that these funds will be used to ensure that:

- Up-to-date technology is purchased for the classrooms in those districts; and
- The teachers are trained in the use of this technology.

The election only applies when the dealer making the election files a timely sales and use tax return. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund will be the amount remaining after resolution of any tax, interest, or penalty due.

Currently, sales and use tax filers are entitled to a collection allowance of 2.5 percent of the first $1,200 of tax due (a maximum of $30) as compensation for keeping prescribed records, filing timely returns, conducting proper accounting, and remitting taxes timely.

To implement this election, the Department has modified the sales and use tax return forms (DR-15 and DR-15EZ) to include a “check box option” on each return beginning with the January 2007 return. This election will also be available for electronic filers. A taxpayer who checks this box will be directing the Department to deposit the dealer’s collection allowance allowed for that return (a maximum of $30) into the Educational Enhancement Trust Fund. Taxpayers who wish to donate their collection allowance to education must make this election on EACH original return filed. Once a return has been filed with the election to donate the collection allowance, the election CANNOT be rescinded for that return.

A taxpayer who makes the election and checks the election box on the return SHOULD NOT enter the collection allowance amount on the collection allowance line (DR-15, Line 11, and DR-15EZ, Line 8) of the return. When the taxpayer checks the check box and leaves Line 8 (DR-15EZ) or Line 11 (DR-15) blank, the Department will calculate the proper collection allowance and transfer this amount to the Educational Enhancement Trust Fund. The amount of the taxpayer’s payment should agree with the amount due on the return, without a deduction for the collection allowance (see examples below).

For taxpayers who file consolidated sales and use tax returns (electronically or paper), the “check box option” for making the election will be on the DR-15CON. This provides the consolidated filer with the ability to make the election at the consolidated level, rather than making individual elections for each location on the Form(s) DR-7. If the election box is checked on the DR-15CON the dealer’s total collection allowance allowed for the consolidated return will be transferred into the Educational Enhancement Trust Fund which will be distributed to school districts that have adopted such resolutions. Therefore, there will NOT be a “check box option” on the Form(s) DR-7. Consolidated dealers who make the election and check the election box on the DR-15CON SHOULD NOT enter the collection allowance amount on Line 11 of the Forms DR-7 or on Line 11 of the DR-15CON. The amount of the dealer’s payment should agree with the amount due on the DR-15CON, without deduction for the collection allowance. www.myflorida.com/dor

Elect to Donate, continued page 5
Elect to Donate, continued from page 5

Taxpayers who are located out-of-state or whose business is located in a county where the school district has not adopted the required resolution may still elect to donate their collection allowance to education. In this case, the donated collection allowance funds will be equally distributed to school districts that have adopted such resolutions.

References: Ch. 2006-52, Laws of Florida, s. 212.12 (1)(c)1., F.S.
(TIP # 06A01-20 issued November 15, 2006)

DR-15:
- Check box.
- Leave Line 11 blank.
- Amount of payment should agree with the amount due on Line 14.

Does Your Out-of-State Company Have a Business Connection or Location in Florida?

Information for out-of-state businesses

Even though you are out of state, you may owe tax in Florida if you:

- Maintain an office or other place of business in Florida.
- Assemble, install, service, or repair products in Florida.
- Have an employee living or working in Florida and performing functions other than the solicitation of sales.
- Own tangible personal property in Florida.
- Lease real property or tangible personal property in Florida.
- Deliver goods to Florida customers using your company-owned or leased truck.

If you are conducting business in Florida, please register immediately

Taxes that you may be obligated to collect and/or pay include, but are not limited to:

- Sales and Use Tax
- Corporate Income Tax
- Intangible Personal Property Tax

If you think you might owe back taxes, our Voluntary Disclosure Program can help you bring your taxes up-to-date.

For more information about business connection (nexus) or location (situs), contact the Department of Revenue’s Atlanta Service Center at 770-858-3080.

If you know of a business that is not complying with Florida law, you can report possible tax violations the Department.
Changes to Secondhand Dealers Registration and Administrative Requirements

Effective October 1, 2006, Chapter 2006-201, Laws of Florida, enacted a number of changes to Chapter 538 that revise:

- The definitions of secondhand dealer and secondhand goods,
- The entities and transactions exempt from the requirements of Chapter 538, F.S.,
- Recordkeeping requirements and penalties,
- The length of time a dealer must hold suspected stolen goods, and
- The time period considered during background investigations for new registrations on or after October 1, 2006.

For your information Taxpayer Information Publication 06A01-08 issued on August 28, 2006 is posted at www.myflorida.com/dor/tips. Changes enacted to the definitions of secondhand dealer and secondhand goods are summarized below:

Definitions of Secondhand Dealer and Secondhand Goods

Chapter 2006-201, Laws of Florida, changes the definition of “Secondhand Dealer” to be any person, corporation, or other business organization or entity which is not a secondary metals recycler and which is engaged in the business of purchasing, consigning, or trading secondhand goods. Chapter 2006-201, Laws of Florida, also changes the definition of “Secondhand Goods” to be personal property previously owned or used, which is not regulated metals property and which is purchased, consigned, or traded as used property, with the following items specifically excluded from the definition:

- Office Furniture
- Pianos
- Books
- Clothing
- Organs
- Coins
- Motor Vehicles
- Costume jewelry
- Secondhand sports equipment that is not permanently labeled with a serial number (excluding golf clubs)

Chapter 2006-201, Laws of Florida, also specifies that Chapter 538, F.S., does not apply to:

- Businesses primarily engaged in the rental, sale, or trade of motion picture videos and video games (provided they meet certain conditions)
- Internet shopping (provided they meet certain conditions)

Chapter 2006-201, Laws of Florida, did not impact certain entities or transactions specifically exempt from Chapter 538, F.S., under Section 538.03(2), F.S. Examples of such entities or transactions include (but are not limited to):

- Any person accepting a secondhand good as a trade-in for a similar item of greater value.
- Nonprofit, religious, charitable organizations or school-sponsored associations,
- Garage sale operators who hold less than 10 garage sales per year,
- Purchases, consignments or trades of secondhand goods made between secondhand dealers who are in compliance with registration requirements, and
- The length of time a dealer must hold suspected stolen goods, and
- The time period considered during background investigations for new registrations on or after October 1, 2006.

Any person, corporation, or other business organization or entity which is not a secondary metals recycler and which is engaged in the business of purchasing, consigning, or trading secondhand goods, other than the items or businesses indicated above, must register with the Department of Revenue as a secondhand dealer.

For a complete understanding of the changes in law, consult Chapter 2006-201, Laws of Florida.

Intangible Personal Property Tax Repealed

After several years of effort, the Legislature has completed the repeal of the annual Intangible Personal Property Tax. While Ch. 2006-312, Laws of Florida, (HB 209, 2006) did not completely eliminate all aspects of the annual intangible tax, it is for the most part gone. June 30, 2006, was the due date of the last annual Intangible Property Tax Return required to be filed on stocks, mutual funds, money market funds, shares of business trust, membership interest in LLCs, bonds or notes by individuals or businesses. As of January 1, 2007, individuals and businesses will not be filing intangible tax returns.

What remains of the annual intangible tax after the passage of the bill is the annual tax on leases of government property. Section 9, Ch. 2006-312, Laws of Florida, states that property owned by government, but leased to nongovernmental lessees, is to be taxed as an intangible under the provisions of Ch. 199, F.S., 2005.

It should be noted that the bill also contains provisions directing the Department to continue with collection activities for intangibles taxes owed in years prior to 2007. Generally, this will mean that through June 30, 2009, the Department, following the guidelines of the statute of limitations in s. 95.091(3), F.S., will complete collection of all intangible tax that is owed to the state based upon tax liability prior to 2007.

The repeal of the annual intangible tax had no effect on the nonrecurring intangible tax on obligations secured by a lien on Florida real property. Notes secured by mortgages on Florida real property are still subject to the nonrecurring intangible tax and due to the state within 30 days of the creation of the obligation. The nonrecurring intangible tax is to be paid to the Clerk of the Court at the time the note and mortgage is recorded or directly to the Department of Revenue if the note and mortgage is not being recorded.
Sales Tax on Construction Projects for Governmental Entities

This article explains the basic criteria and procedures for a governmental entity to use its sales tax exemption to purchase materials or supplies that will be incorporated into the construction, renovation, remodeling, or repair of government facilities (public works) located in Florida, such as:

- School facilities
- Municipal offices or utilities projects
- County courthouses or public recreational facilities

While Florida law taxes materials purchased by a contractor who is engaged in a public works contract, the law exempts from sales tax the same materials if they are bought by a governmental entity. Rule 12A-1.094(4)(b), F.A.C., explains the relevant law and lists five criteria that must be met before such a purchase by a governmental entity can be considered tax exempt. But it is important to note that Florida law requires that these transactions be reviewed on a case-by-case basis, because it is ultimately the substance of the transaction, rather than the form, that controls the tax consequences.

Generally, the specific contract provisions will make evident the fact the five criteria have been met. But even if the contract provisions appear to meet the rule criteria for a tax exempt sale, unless the actions of the parties comply with the contract provisions, the governmental entity will not be able to obtain the exemption.

Provided below is a summary of the specific guidelines required to treat a transaction as an exempt purchase of tangible personal property by the state. The rule generally requires that there be:

1. A direct purchase order from the governmental entity that contains its Consumer’s Certificate of Exemption number. In other words, the governmental entity must deal directly with the supplier of the materials and/or supplies through purchase orders and invoices,

2. A direct invoice from the vendor to the governmental entity,

3. A direct payment of the invoice by the governmental entity. Thus, the governmental entity must issue its check directly to the supplier. If the contractor issues the check or makes the purchase, tax must be paid,

4. The governmental entity must take title to the materials from the vendor from the time it is delivered to the job site until the time it is incorporated as real property, and

5. The governmental entity must assume the risk of loss or damage to the materials. To establish that the governmental entity has assumed that risk, the governmental entity can purchase and be the insured party for the building materials used in public works projects, or it can be the beneficiary of insurance or builder’s risk policies.

It should be noted that this exemption does not apply to materials used in off-site fabrication. [Example: If a contractor builds special concrete planters off-site, the materials purchased for making the planters are not exempt.]

For further information or questions concerning this issue, please call the Florida Department of Revenue’s Taxpayer Services Process, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 or a local Department service center near you.
Hurricane Preparedness Sales Tax Holiday, June 1-12, 2007

Florida law provides that no sales tax or discretionary sales surtax (also known as a local option sales tax) will be collected on the sale or purchase of certain items related to hurricane preparedness for the period beginning, Friday, June 1, and ending at midnight, Tuesday, June 12, 2007.

This sales tax exemption applies to each eligible item, regardless of the number of items sold on the same invoice to a customer. If the sales price of a qualifying item exceeds the allowable threshold amount (listed below) this tax exemption will not apply and the total purchase price is subject to tax. The exemption DOES NOT apply to the leasing of a qualified item.

The following items are specifically identified as eligible for this special sales tax holiday for hurricane preparedness:

Qualifying items selling for $10 or less:
- Reusable ice or items sold as artificial ice

Qualifying items selling for $20 or less:
- Any portable self-powered light source
- Battery-powered flashlights
- Battery-powered lanterns
- Gas-powered lanterns (including propane, kerosene, lamp oil, or similar fuel)
- Tiki type torches
- Candles

Qualifying items selling for $25 or less:
- Any gas or diesel fuel container (including LP gas and kerosene containers)

Qualifying items selling for $30 or less:
- Batteries, including rechargeable (listed sizes only)
  - AAA-cell, AA-cell, C-cell, D-cell
  - 6-volt (excluding automobile and boat batteries)
  - 9-volt (excluding automobile and boat batteries)
- Coolers (food-storage; non-electrical)
- Ice chests (food-storage; non-electrical)

Qualifying items selling for $40 or less:
- Any cell phone charger

Qualifying items selling for $50 or less:
- Tarpaulins (tarps)
- Visqueen, plastic sheeting, plastic drop cloths and other flexible waterproof sheeting
- Ground anchor systems or kits
- Tie-down kits (items that are advertised or normally sold as a tie-down kit)
- Bungee cords
- Ratchet straps

Qualifying items selling for $60 or less:
- Any cell phone batteries

Qualifying items selling for $75 or less:
- Radios (self-powered or battery-powered)
- Two-way radios (self-powered or battery-powered)
- Weather band radios (self-powered or battery-powered)
- Any carbon monoxide detectors
- Any package consisting of two or more of the previously listed qualifying hurricane-preparedness items

Note: Battery-powered or gas-powered light sources and qualifying portable self-powered radios will qualify for the exemption even though they may have electrical cords.

Qualifying items selling for $200 or less:
- Storm shutter devices (defined as materials and products specifically manufactured, rated, and marketed for the purpose of preventing window damage from storms)

Qualifying items selling for $1,000 or less:
- Portable generators that will be used to provide light, communications, or to preserve perishable food in the event of a power outage

This exemption does not apply to sales of items within a theme park, entertainment complex, public lodging establishment, or airport.

* This special sales tax holiday DOES NOT apply to clothing, books, or school supplies.

(TIP # 07A01-04 issued April 30, 2007)
Administrative Rules

Compensation for Tax Information
The amendments to this rule provide in subsection (2) that compensation for tax information will be paid at a flat rate of 10 percent, 5 percent, or 1 percent of the tax, penalty, and interest collected, based on the criteria currently established; and they remove the provisions of subsection (3) that established the criteria for when the Executive Director will pay an amount of compensation greater than the amounts established in subsection (2) of the rule.

12-18.003 Amount and Payment of Compensation
Adopted: 9/19/06 Effective: 10/30/06

The following rule is amended to update information on how to obtain a copy of Form DR-55, Application for Compensation for Tax Information, from the Department.

12-18.004 Submission of Information and Claims for Compensation
Adopted: 9/19/06 Effective: 10/30/06

Severance Taxes and Fees
The amendments to this rule provide the method used to compute the phosphate rock tax rate for the year 2006 and the index that will be used by the Department for the purpose of calculating the annual base rate adjustment to the phosphate rock tax rate beginning with the year 2007 and annually thereafter.

12B-7.0225 Computation of Phosphate Rock Tax Rate
Adopted: 9/19/06 Effective: 10/30/06

Intangible Personal Property Tax
The amendments to this rule adopt, by reference, changes to the forms used by the Department in the administration of the Florida intangible personal property tax and update information on how to obtain forms from the Department.

12C-2.0115 Public Use Forms
Adopted: 9/19/06 Effective: 10/30/06

Estate Tax
The following rule is amended to adopt, by reference, changes to forms used by the Department in the administration of the Florida estate tax and to update information on how to obtain forms from the Department.

12C-3.008 Public Use Forms
Adopted: 9/19/06 Effective: 10/30/06
Technical Assistance Advisements

Technical Assistance Advisements (TAAs) are written statements issued by the Department of Revenue, setting forth the Department’s position on the tax consequences of a specific transaction or event under applicable statutes and rules. TAAs are issued in response to written requests by taxpayers. Since the situations could apply to other taxpayers with the same situation, Facts on Tax publishes summaries of the TAAs. All TAAs listed in this publication are maintained in full text in the Florida Department of Revenue Tax Law Library at www.myflorida.com/dor. Administrative rules in the library are updated monthly to reflect revisions listed in the publication. The library includes seven years of Florida tax statutes, administrative rules affecting taxes, all technical advisories issued by the Department, and Tax Information Publications (TIPs).

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-019  
**ISSUE:** Vehicle lease  
**STATUTE CITES:** Sections 212.02(15)(a), 212.05(2), 212.15(1), and 212.0606(1), F.S.  
**RULE CITES:** Rules 12A-16.001 and 12A-16.002, F.A.C.  
**QUESTION:** Is a motor vehicle dealership responsible for collecting and remitting: 1) Florida sales tax applicable to a down payment made under a motor vehicle lease; 2) Florida sales tax applicable to the first month’s lease payment; and 3) the rental car surcharge imposed pursuant to Section 212.0606(1), F.S., when the down payment and first month’s lease payment are collected by the dealership at the time a customer signs a motor vehicle lease.  
**ANSWER:** When a dealership accepts a down payment and payment for the first month’s rent when a customer signs a motor vehicle lease, the dealership must collect and remit the applicable Florida sales tax on these payments to the Department. Additionally, the dealer must collect and remit the applicable rental car surcharge to the Department.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-021  
**ISSUE:** Software technical services  
**STATUTE CITE(S):** Sections 212.05, 212.02(15)(d) and (16), F.S.  
**RULE CITE(S):** Rule 12A-1.061, F.A.C.  
**QUESTION:** Are separately itemized, non-mandatory gratuities billed by a restaurant to its guests taxable when the entire amount of the gratuity is distributed to the employees and no benefit is received by the restaurant?  
**ANSWER:** The gratuity charge collected by the restaurant is not subject to sales tax. Since the charge is billed separately to the guests and identified as a service charge, and the full amount collected is distributed to the employees, with no benefit from the gratuity charge received by the restaurant, the charge qualifies as a nontaxable gratuity.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-022  
**ISSUE:** Gratuities  
**STATUTE CITES:** 212.05, 212.02(15)(d) and (16), F.S.  
**RULE CITE(S):** Rule 12A-1.061, F.A.C.  
**QUESTION:** Are separately itemized, non-mandatory gratuities billed by a restaurant to its guests taxable when the entire amount of the gratuity is distributed to the employees and no benefit is received by the restaurant?  
**ANSWER:** The gratuity charge collected by the restaurant is not subject to sales tax. Since the charge is billed separately to the guests and identified as a service charge, and the full amount collected is distributed to the employees, with no benefit from the gratuity charge received by the restaurant, the charge qualifies as a nontaxable gratuity.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-020  
**ISSUE:** Transfer of semitrailers from corporation to LLC  
**STATUTE CITES:** Sections 212.06(10), 220.03(1)(e), 320.01, and 608.471, F.S.  
**RULE CITE(S):** Rule 12A-1.007(25), F.A.C.; Sections 355 and 368(a), I.R.C.  
**QUESTION:** Is a transfer of semi-trailers from a corporation to a wholly-owned, single-member limited liability corporation (LLC) in exchange for stock or units in the LLC exempt from Florida sales and use tax under Rules 12A-1.007(25)(g)1.a. or 12A-1.007(25)(a)4., F.A.C.?  
**ANSWER:** The taxpayer’s transfer of semitrailers does not qualify under Rule 12A-1.007(25)(g)1.a., F.A.C.; the taxpayer’s semi-trailers do not satisfy two of the three requirements in the definition of “commercial motor vehicle” in Rule 12A-1.007(25)(g)3.a., F.A.C. The taxpayer’s transfer of semitrailers is exempt from Florida sales and use tax under Rule 12A-1.007(25)(a)4., F.A.C. The taxpayer’s reorganization qualifies for s. 368(1)(D), I.R.C., because the taxpayer satisfies s. 355, I.R.C.
TAX: Sales and Use Tax
TAA NUMBER: 06A-023
ISSUE: Improvements to real property contract for a non-profit organization
STATUTE CITE(S): 212.08(6), 212.08(7) and 212.08(7)(p), F.S.
RULE CITE(S): 12A-1.038(3)(a), (e) and 12A-1.094, F.A.C.

QUESTION 1: Is the taxpayer required to collect sales tax from the owner for fabricated roof timbers it sells directly to a governmental entity?

ANSWER: Whether the roof structure is viewed as tangible personal property or as real property improvement, the project is nonetheless for a “public works”, and under authority of s. 212.08(6), F.S., the governmental unit need not pay tax to the taxpayer and the taxpayer need not collect tax from the governmental unit if the criteria outlined in Rule 12A-1.094(4)(b), F.A.C., are met.

QUESTION 2: Is the taxpayer required to collect sales or use tax on any materials, fabrication labor, or fabrication overhead on the installation labor it provides as part of its contract with the governmental entity?

ANSWER: Yes. Irrespective of the fact that the taxpayer is not installing the roof structures under the same contract that it uses to sell the roof structures, the taxpayer in fact is doing both. Therefore, the taxpayer is a “contractor” pursuant to Rule 12A-1.094, F.A.C.

QUESTION 3: Is the taxpayer required to collect sales tax from the owner for fabricated roof timbers it sells directly to a not-for-profit entity?

ANSWER: Rule 12A-1.051, F.A.C., defines a “real property contract” to be one where an entity both furnishes and installs tangible personal property. Since the taxpayer in his contract with the tax-exempt entity merely manufactures and delivers the roof structures to the site, it is not performing a “real property contract”.

QUESTION 4: Is the taxpayer required to collect sales or use tax on any materials, fabrication labor, or fabrication overhead on the installation labor it provides as part of its contract with a not-for-profit entity?

ANSWER: Despite the fact the taxpayer is selling tangible personal property to the tax-exempt entity, it is actually a sale of an item that will become part of real property to the tax-exempt entity, it is actually a sale of an item that will become part of a real property improvement and is being installed by the taxpayer. Therefore, the taxpayer must pay use tax per Rule 12A-1.051(10), F.A.C.

QUESTION: Are charges for additional services considered to be part of the sales price of the original transaction?

ANSWER: Yes. It is indicated in the Software and Equipment Agreement that Exhibit A and the Addenda for the services are part of the agreement entered into effective September 27, 2001. The vendor and purchaser concurred that the terms of the agreement would commence on that date and were perpetual unless terminated. Therefore, the additional services are not incidental elements of the transaction. Instead, the services are inextricably intertwined with the original purchase of the software and hardware.

QUESTION 1: Are purchases by a hospital of beds, linens, and other items of tangible personal property, when purchased in bulk or institutional quantities and supported by the issuance of a single purchase order, subject to the discretionary sales surtax limit?
**ANSWER 1:** Items meeting both the single sale and the working unit or bulk sale tests may be aggregated for the purposes of the discretionary sales surtax limitation. Provided that there is documentary evidence to establish a single sale occurred, each line item can meet the bulk sale test. If, however, all of the line items do not comprise a working unit, the discretionary sales surtax limit will apply to each line item on the invoice.

**QUESTION 2:** Is the purchase of sophisticated medical equipment considered a purchase of a “single working unit” or part of a “single working unit” for the purposes of the discretionary sales surtax limit?

**ANSWER 2:** Each piece of equipment such as an ultrasound system or a radiographic and fluoroscopic imaging system may be considered a “single working unit” for the purposes of the discretionary sales surtax limit. The limit would apply to each system. If there is sufficient evidence to support a single sale, the systems may also qualify for a bulk sale, and the limit would apply once to the contract.

**TAX:** Sales and Use Tax
**TAA NUMBER:** 06A-027
**ISSUE:** Public works contracts
**STATUTE CITe(S):** Section 212.054, F.S.
**RULE CITe(S):** 12A-1.038(4), 12A-1.094, F.A.C.

**QUESTION:** Are the terms and conditions proposed by the taxpayer to be included into public works contracts with contractors sufficient to allow the taxpayer to purchase materials which are incorporated by the contractors into public works projects exempt from sales tax?

**ANSWER:** Based on the proposed terms and conditions, the sales tax recovery agreement, and the exhibits provided by the taxpayer, the legal incidence of sales tax on purchases of tangible personal property that will be incorporated into public works projects would be directly upon the taxpayer. Such purchases would be exempt from sales tax as long as no other provisions in any contract would serve to override any of the proposed terms and conditions, the sales tax recovery agreement, or the exhibits provided by the taxpayer with this request for a Technical Assistance Advisement. This response is not applicable to any contractor that uses its own materials in the manufacture or fabrication of tangible personal property which is incorporated into the taxpayer’s public works project.

**TAX:** Discretionary Sales Surtax
**TAA NUMBER:** 06A-028
**ISSUE:** $5,000 Surtax Limitation
**STATUTE CITe(S):** Section 212.054, F.S.
**RULE CITe(S):** 12A-15.004, F.A.C.

**QUESTION 1:** The taxpayer provided an invoice which reflected that multiple items of tangible personal property were purchased from a dealer at the same time; the quantity of each item purchased was listed on the invoice; all items were delivered on the same date; the invoice total exceeded $5,000. The question is whether the invoice total qualifies the sale for the $5,000 Discretionary Sales Surtax limitation.

**ANSWER 1:** Determination is made that the invoice total, being above $5,000, does qualify for the $5,000 Discretionary Sales Surtax limitation as a single sale of multiple items; but the invoice did not meet the bulk sale test, since the transaction is neither the sale of multiple quantities of a single item nor was there documentation provided to support the fact that the items were sold as components of a working unit.

**QUESTION 2:** Using the same invoice as provided in Question 1, the taxpayer made additional statements that:

- These items are not normally sold as a set due to the many variations and particulars of each system,
- The parts listed on the invoice may go into different systems and may not all be for the same system, and
- Some of the items listed are not assembled directly with each other, but instead are assembled to other parts of the working unit.

**ANSWER 2:** The statements made by the taxpayer, without any other evidence except the invoice, are not sufficient enough to clearly reflect that all items listed on the invoice provided were components of a working system. As such, the invoice does not qualify for the $5,000 Discretionary Sales Surtax limitation.

**QUESTION 3:** The taxpayer provided an additional invoice which reflected that multiple single items (the largest quantity of the same single item totaled $33,499.80) were sold on the same invoice. The invoice total exceeded $5,000. Two items listed on the invoice were tools sold for the installation of other items listed on the invoice. The taxpayer makes the statement in describing the invoice that, except for the two items, all other items are items that will become part of a working unit. The question is whether the $5,000 Discretionary Sales Surtax limitation applies to all items sold except the two that are tools rather than components of a working unit.

**ANSWER 3:** Determination is made that the invoice does conform to the $5,000 Discretionary Sales Surtax limitation on the total amount of the invoice, minus the cost of the tools sold on said invoice.
ANSWER 3: Determination is made that the invoice does conform to the $5,000 Discretionary Sales Surtax limitation on the total amount of the invoice, minus the cost of the tools sold on said invoice.
TAX: Sales and Use Tax  
TAA NUMBER: 06A-031  
ISSUE: Nexus  
STATUTE CITE(S): 212.05, 212.0596, 212.06, Florida Statutes  
RULE CITE(S): 12A-1.027 and 12A-1.091, Florida Administrative Code

**QUESTION:** Does the taxpayer’s activities in Florida create nexus?

**ANSWER:** If a taxpayer’s only activities in Florida are in fact, mail order sales and the taxpayer does not have a physical presence as described herein, it could be said that the taxpayer does not have nexus and cannot be required to remain registered to collect and remit Florida sales tax.

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TAX: Sales and Use Tax  
TAA NUMBER: 06A-032  
ISSUE: License to use real property, management agreements  
STATUTE CITE(S): Sections 212.02, 212.031, and 213.22, Florida Statutes (“F.S.”)  
RULE CITE(S): Rule 12A-1.070, F.A.C.

**QUESTION:** Are the eight (8) submitted agreements non-taxable “management agreements” or do they either create a lease or grant a license to use real property? If the latter, are any of the fees paid by the “lessee” or “licensee” subject to Florida sales tax under s. 212.031, F.S.? If so, can a reasonable allocation be made between those fees that are subject to Florida sales tax under s. 212.031, F.S., and those that are not subject to tax under s. 212.031, F.S.?

**ANSWER:** The eight (8) agreements were carefully reviewed. Factors that might indicate the agreements were “management agreements,” rather than licenses to use real property, were applied to the facts presented. Those main factors included: the express language of the agreement, the control afforded to the owner of the real property (both as to the operation of the occupant’s business and as to control of the premises), and risk of loss (i.e., whether the occupant’s compensation represents a reasonable base payment for management services; whether the agreement clearly assigns the risk of loss; indemnification and hold harmless provisions; and whether payments sent to the owner were contingent on sufficient revenues generated).

One (1) agreement would not be subject to Florida sales tax because it is a “management agreement” outside the scope of Chapter 212, F.S. One (1) agreement was found to be exempt from Florida sales tax pursuant to s. 212.031(1)(a)12., F.S. The remainder of the agreements were found to be licenses to use real property subject to Florida sales tax pursuant to s. 212.031, F.S. Interested persons are encouraged to read the entire TAA for more detail.

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TAX: Sales and Use Tax  
TAA NUMBER: 06A-033  
ISSUE: Whether bamboo plants are exempt as plants used to produce food for human consumption  
STATUTE CITE(S): 212.08(5)(a), F.S.

**QUESTION:** A taxpayer questions whether bamboo plants that can be used to produce edible shoots are exempt from sales tax.

**ANSWER:** Section 212.08(5)(a), F.S., exempts plants and trees used to produce food for human consumption. If the customer signs an affidavit that he or she is purchasing the bamboo to produce food for human consumption, the sale is exempt. Otherwise, bamboo is taxable as ornamental nursery stock.

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TAX: Sales and Use Tax  
TAA NUMBER: 06A-034  
ISSUE: Semi-permanent mooring balls  
STATUTE CITE(S): 212.02, 212.05, 212.06, F.S.  
RULE CITE(S): 12A-1.016, F.A.C.

**QUESTION:** Is the semi-permanent installation of a mooring ball properly classed as an improvement to real property or as a sale of tangible personal property?

**ANSWER:** The installation of the mooring ball is described as semi-permanent, rather than permanent. As such, the mooring ball cannot be classified as an improvement to real property. The sale and installation of the mooring ball is subject to tax as a sale of tangible personal property.

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TAX: Communications Services Tax  
TAA: 06A-035  
ISSUE: Early termination charges  
STATUTE CITE(S): Section 213.22 F.S

**QUESTION:** Are additional charges imposed by a communications services provider subject to communications services tax when the additional charges are imposed because a customer terminates his or her services contract with the provider prior to the agreed expiration of the contract?

**ANSWER:** Yes. Florida communications services tax is imposed on the sales price of communications services. “Sales price” is defined to include charges for the termination of communications services. As additional charges imposed because of early termination are necessarily “termination” charges, these charges are included in the “sales price” of the communications services sold.

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TAAs, continued on page 15
**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-036  
**ISSUE:** Floating docks  
**STATUTE CITE(S):** 212.03, 212.031, 212.05, 212.06, F.S.  
**RULE CITE(S):** 12A-1.071, F.A.C.  

**QUESTION:** Are the floating docks described classed as tangible personal property, and if so, can they be purchased exempt from tax as exclusively for leasing purposes?  

**ANSWER:** The floating docks described are classed as tangible personal property. The floating dock is not permanently attached or anchored to the realty. The docks are anchored to cement blocks resting of the floor of the waterway; they are not attached to pilings sunk into the floor of the waterway. The wiring and plumbing is described as soft-wired and soft-plumbed rather than hard-wired and hard-plumbed. The docks cannot be purchased exempt from tax as exclusively for leasing purposes. When the taxpayer provides docking or storage space for boats at its marina, it is not leasing tangible personal property. The taxpayer’s agreement is for the license of dock space, and in the agreement the taxpayer agrees to store the customer’s boat. Section 212.03(6), Florida Statutes, imposes tax on the lease of docking or storage space for boats as a separate privilege from the lease of tangible personal property.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-037  
**ISSUE:** Purchase of materials for public works  
**STATUTE CITE(S):** 212.08(6), F.S.  
**RULE CITE(S):** 12A-1.038, 12A-1.051, 12A-1.094, F.A.C.  

**QUESTION:** Do the procedures for the purchase of materials set out in the contract for the construction of public works meet the legal requirements for the city to purchase the materials tax-exempt?  

**ANSWER:** The procedures meet the legal requirement for the city to purchase the materials tax exempt as long as the controlling documents provide:  

- The governmental entity must execute the purchase orders for the tangible personal property involved in the contract, which must include the governmental entity’s consumer’s certificate of exemption number. The contractor may present the governmental entity’s purchase orders to the vendors of the tangible personal property.  
- The governmental entity must acquire title to and assume liability for the tangible personal property from the point in time when it is delivered to the job site up until the time it is incorporated as real property.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-038  
**ISSUE:** Tax on Boiler Fuels Used in the Manufacturing Process  
**STATUTE CITE(S):** Section 212.08(7)(b), F.S.  
**RULE CITE(S):** 12A-1.059, F.A.C.  

**QUESTION 1:** The taxpayer manufactures cabinets. Natural gas is purchased and used to bake a wood sealer/top coat onto a completed cabinet at a specified temperature. All natural gas purchased by the taxpayer goes through one meter, and some is used to heat the facility in which cabinets are manufactured. The question then is: may the exemption from sales tax authorized by s. 212.08(7)(b), F.S., on boiler used to manufacture tangible personal property for sale be prorated using factors provided by the taxpayer?  

**ANSWER 1:** The answer is no. There are no provisions found in Chapter 212, F.S., which authorizes the exemption granted in s. 212.08(7)(b), F.S., to be prorated. One provision of s. 212.08(7)(b), F.S., specifically states: “... however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein.”

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-039  
**ISSUE:** Vessel use in Florida  
**STATUTE CITE(S):** Section 212.05, 212.06, F.S.  
**RULE CITE(S):** Rule 12A-1.007, F.A.C.  

**QUESTION:** Whether the taxpayer’s yacht is subject to Florida use tax if it enters Florida and is listed for sale with a Florida broker, and is placed under the broker’s care, custody, and control, when the yacht has not been subject to the taxing jurisdiction of any state, territory, or the District of Columbia.  

**ANSWER:** The taxpayer’s yacht will not be subject to Florida use tax, if it is 1) listed for sale with a Florida broker under the taxpayer’s Central Listing Agreement and Addendum; 2) placed under the broker’s care, custody, and control; and 3) used in Florida for the sole purpose of being offered for sale at retail.
TAAs, continued from page 15

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-040  
**ISSUE:** Medical products  
**STATUTE CITE(S):** Sections 212.08(2)  
**RULE CITE(S):** Rule 12A-1.020(6), F.A.C.

**QUESTION:** What is the taxable status of certain one-time use “RX” medical products that are “reprocessed” and subsequently resold?

**ANSWER:** One-time use “RX” medical products that are legally allowed to be reprocessed and sold again do not lose their tax exemption because of the reprocessing.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-042  
**ISSUE:** Murphy beds  
**STATUTE CITE(S):** 212.06(1), F.S.  
**RULE CITE(S):** 12A-1.043, 12A-1.051, F.A.C.

**QUESTION:** Is the sale and installation of a Murphy bed a real property improvement or a sale of tangible personal property?

**ANSWER:** Due to the method of attachment, and the fact that the items are expected to remain in place for an indefinite period of time, a Murphy bed is considered a real property improvement. As such, the contractor should pay tax to suppliers on the cost of the materials as the ultimate consumer of the materials and supplies used to perform a lump sum contract to repair or install these items pursuant to Rule 12A-1.051, F.A.C. The contractor should charge no tax to the customer.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-043  
**ISSUE:** After-hour usage charges for utilities  
**STATUTE CITE(S):** Sections 212.031 and 212.05, F.S.  
**RULE CITE(S):** Rule 12A-1.070, F.A.C.

**QUESTION:** Are after-hour usage charges for utilities subject to use and sales tax?

**ANSWER:** S. 212.031(7), F.S., and Rule 12A-1.070(4)(e), F.A.C., provide that utility charges paid for the right to occupy real property are subject to tax unless the following three requirements are met: (1) the lessor must have already paid sales tax on the purchase of the utilities from the utility provider; (2) the utilities billed by the lessor to the tenant must be separately stated on the lessor’s invoice to the tenant; and (3) the utility charges billed to the tenant must be at the same or lower price as that billed by the utility company to the lessor.

The taxpayer has requested an advisement regarding the taxability of the utility portion of the after-hours usage charges to provide electricity for heat, ventilation, and air conditioning (“HVAC”), where tax on such charges is paid by the landlord to the utility provider and subsequently passed through to the tenants without a markup. The above referenced exemption would apply to the after-hours usage charges if the three requirements are met. Under the present circumstances, the requirements provided by s. 212.031(7), F.S., and Rule 12A-1.070(4)(e), F.A.C., have not been met. Although the taxpayer provided a copy of a bill from its local utilities provider that demonstrated that Florida sales tax had been paid, the monthly invoice that the taxpayer provides to its tenants does not separately state the portion of the after-hours usage charges that can be attributed to the utility charges. In addition, no evidence has been provided to demonstrate that the utility charges passed through to the tenant are at the same or lower rate than those charged to the taxpayer by the utility provider. Consequently, the taxpayer is not entitled to the above referenced exemption.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-044  
**ISSUE:** Pass through utility charges  
**STATUTE CITE(S):** Sections 212.031 and 212.05, F.S.  
**RULE CITE(S):** Rule 12A-1.070, F.A.C.

**QUESTION:** Are charges for utilities passed through to the taxpayer by the lessor as part of common area maintenance (“CAM”) charges subject to sales and use tax?

**ANSWER:** Section 212.031(7), F.S., and Rule 12A-1.070(4)(e), F.A.C., provide that utility charges paid for the right to occupy real property are subject to tax unless the following requirements are met: (1) the lessor must have already paid sales tax on the purchase of the utilities from the utility provider; (2) the utilities billed by the lessor to the tenant must be separately stated on the lessor’s invoice to the tenant; and (3) the utility charges billed to the tenant must be at the same or lower price as that billed by the utility company to the lessor. This exemption applies to utility payments that are passed through to the tenant as a portion of the CAM charges.

The taxpayer and lessor entered into a lease agreement which provides that CAM charges are to be paid as additional rent. A portion of the CAM charges constitutes the pass through utility charges to the taxpayer. Under the present circumstances, the three requirements provided by the above referenced rules have been met. The taxpayer met the first requirement by providing electricity bills from the utility provider and subsequent payments made by the lessor. The taxpayer met the second requirement by providing a year-end reconciliation from the lessor, which included a detailed list of recoverable expenses for the entire shopping center. The list of recoverable expenses included a line-item for electricity. Although the line-item provided the electricity charges for the entire Shopping center, those charges attributed to the taxpayer can be calculated because their pro rate share of the expenses was provided. This itemization is sufficient to meet the...
separately stated requirement because the taxpayer is given notice of the utility charges that are passed through as part of the overall CAM charges. The final requirement would be met as long as the lessor is passing through the utility charges at the same or lower price as that billed by the utility company to the lessor. This requirement is met because the lessor is passing through the utility charges to the taxpayer without a mark-up. Consequently, the taxpayer is entitled to the referenced exemption.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-045  
**ISSUE:** Fees charged to transient guests  
**STATUTE CITE(S):** Sections 125.0104, 212.03(1), and 213.22(1), F.S.  
**RULE CITE(S):** Rule 12A-1.061(3), F.A.C.  
**QUESTION:** Are “reservation fees,” “condominium application fees,” and “golf transfer fees” subject to tax as rental charges paid for transient accommodations?

**ANSWER:** No, such fees are not included in rental charges subject to tax, when the reservation fee and condominium application fee are paid for the processing of applications to rent transient accommodations, and the golf transfer fee is not required to be paid as a condition of the use or possession, or the right to the use or possession, of a transient accommodation.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 06A-046  
**ISSUE:** Medical products  
**STATUTE CITE(S):** Sections 212.08(2)  
**RULE CITE(S):** Rule 12A-1.020(6), F.A.C.  
**QUESTION:** What is the taxable status of one-time use “pain pumps” which will be dispensed to patients?

**ANSWER:** A pain pump dispensed to the patient by a licensed physician is exempt from tax when purchased by the physician or clinic. The purchase of reusable pain pumps where ownership of the pain pump will not be transferred to the patient would be taxable to the healthcare provider.

**TAX:** Documentary Stamp Tax  
**TAA NUMBER:** 06B4-007  
**ISSUE:** Loanliner credit agreement  
**STATUTE CITE(S):** Sections 201.08(1)(a) and (1)(b), and Subsection 201.08(6), F.S.  
**RULE CITE(S):** N/A  
**QUESTION:** Is Florida’s documentary stamp tax, as imposed under section 201.08, F.S., due on specific documents provided for review, more specifically:  
• Loanliner Credit and Security Agreement PLUS,  
• Loanliner Credit Insurance Application & Schedule,  
• Loanliner Open-End Disbursement Receipt Plus, and  
• Loanliner Security Agreement?

**ANSWER:** Documentary stamp tax as imposed under paragraph 201.08(1)(a), F.S., is due on any instrument executed, signed, or delivered in Florida that contains an unconditional written obligation to pay money. The taxability of a document under this paragraph is determined solely from the face of the document and any separate document expressly incorporated into the document. Documentary stamp tax as imposed under paragraph 201.08(1)(b), F.S., is due on any mortgage or other lien filed or recorded in Florida.

It is determined that the Loanliner Credit and Security Agreement PLUS, the Loanliner Credit Insurance Application & Schedule, the Loanliner Open-End Disbursement Receipt Plus, and the Loanliner Security Agreement provided for review are not subject to documentary stamp tax imposed under paragraph 201.08(1)(a), F.S. It is also determined that neither of the documents reviewed contains language that expressly incorporates it with any of the other documents reviewed.

The documents reviewed are not subject to documentary stamp tax as imposed under s. 201.08(1)(a), F.S., but would be subject to tax imposed under s. 201.08(1)(b), F.S., if they purport to establish a lien and are filed or recorded in Florida.
### TAX: Documentary Stamp Tax

**TAA NUMBER:** 06B4-008

**ISSUE:** Taxability of deeds in a s. 1031, I.R.C., Exchange

**STATUTE CITE(S):** Sections 201.02(1), 201.08(1), F.S.

**RULE CITE(S):** 12B-4.014(5), F.A.C.

**QUESTION:** Will both deeds, the one from the seller to the agent and the one from the agent to buyer, be subject to documentary stamp tax under an installment sale agreement?

**ANSWER:** In accordance with Rule 12B-4.014(5), F.A.C., the funds of the principal are used by the agent to acquire the desired property. The funds are deposited in a separate account with only periodic installment payments from the sales funds going to the seller. The first deed from the seller to the agent is subject to documentary stamp tax on the entire sales price. The second deed transferring the property from the agent to the buyer is therefore not subject to tax because the funds of the buyer were used to effect the purchase and there was no consideration for this second transfer.

### TAX: Documentary Stamp Tax

**TAA NUMBER:** 06B4-009

**ISSUE:** Conveyance to an LLC under the terms of a will

**STATUTE CITE(S):** Sections 201.02(1), F.S.

**RULE CITE(S):** 12B-4.014(4), F.A.C.

**QUESTION:** Will a conveyance of unencumbered real property from an estate to an LLC having the same beneficiaries receiving the same percentage of interest as specified in the will be subject to documentary stamp tax on the deed?

**ANSWER:** The provisions of the will specified that seven beneficiaries were to receive equal shares of the rest, residue and remainder of the estate. The personal representative of the will conveyed the unencumbered real property to an LLC of which the only members were the same beneficiaries specified in the will. The members of the LLC obtained equal shares (as specified in the will) in the real property conveyed to the LLC. Under the rule above, there is no documentary stamp tax due on the conveyance.

### TAX: Corporate Income Tax

**TAA NUMBER:** 06C1-004

**ISSUE:** Request for authority to discontinue consolidated filing

**STATUTE CITE(S):** Sections 220.131(1), 220.131(2), and 220.131(3), F.S.

**RULE CITE(S):** Rule 12C-1.013(3)(b), F.A.C.

**QUESTION:** May a parent/subsidiary consolidated filing group be granted permission to cease filing Florida consolidated tax returns after being purchased by a new owner (parent), that does not have Florida nexus?

**ANSWER:** The parent/subsidiary consolidated filing group was granted permission to cease filing Florida consolidated tax returns based on provisions of the F.A.C. which addresses changes in business circumstances.

### TAX: Corporate Income Tax

**TAA NUMBER:** 06C1-005

**ISSUE:** Alternative apportionment

**STATUTE CITE(S):** Sections 220.02, 220.11, 220.15, and 220.152, F.S.

**RULE CITE(S):** 12C-1.0152, 12C-1.0154, 12C-1.0155(1)(b) and (f), and 12C-1.0155(2)(f), F.A.C.

**QUESTION:** Does the standard apportionment factor, which would include the sale of business assets in the sales factor and exclude payments under a contract from the payroll factor, fairly represent the extent of the taxpayer’s tax base attributable to Florida?

**ANSWER:** The inclusion of the proceeds from the sale of assets that were used in the taxpayer’s business in conjunction with a change in the payroll factor is found not to materially distort the apportionment factor or tax extraterritorial values. Therefore, the taxpayer’s request for alternative apportionment was not granted.
TAX: Corporate Income
TAA NUMBER: 06C1-006
ISSUE: Alternative apportionment and nonbusiness income
STATUTE CITE(S): Sections 220.02, 220.03, 220.11, 220.15, and 220.152, F.S.
RULE CITE(S): 12C-1.016, 12C-1.015 and 12C-1.0152, F.A.C.

QUESTION: May the taxpayer treat certain expenses in Florida as nonbusiness income/expenses allocable to Florida? May the taxpayer use an alternative apportionment in Florida? If so, is separate accounting the appropriate alternative apportionment?

ANSWER: The expenses are unitary with the taxpayer's business operations and can be included in apportionable income without violating the due process clause of the United States Constitution. Therefore, the taxpayer's expenses for its Florida operations cannot be allocated to Florida. The standard three factor apportionment contained in s. 220.15, F.S., will fairly represent the extent of a taxpayer's tax base attributable to Florida. The standard three factor apportionment does not operate unreasonably and arbitrarily. Nor does it apportion to Florida a percentage of income which is out of all proportion to the business transacted in Florida. Therefore, alternative apportionment in the form of separate accounting in Florida is not warranted and is not permitted.

TAX: Corporate Income Tax
TAA NUMBER: 06C1-007
ISSUE: Request for authority to discontinue consolidated filing
STATUTE CITE(S): Section 220.131, F.S.
RULE CITE(S): Rule 12C-1.0131(3)(b), F.A.C.

QUESTION: May the taxpayer be granted permission to cease filing Florida consolidated tax returns?

ANSWER: The consolidated group was granted permission to cease filing Florida consolidated corporate income tax returns based on provisions which address changes in law or circumstances.

TAAs, continued on page 20
**TAX:** Documentary Stamp Tax and Nonrecurring Intangible Tax  
**TAA NUMBER:** 06M-004  
**ISSUE:** Collateral assignment of mortgage  
**STATUTE CITE(S):** Sections 199.133, 201.08., F.S.  
**RULE CITE(S):** Rule 12B-4.053(27), F.A.C.  
**QUESTION:** Is a loan secured by a collateral assignment of note and mortgage subject to the documentary stamp tax and nonrecurring intangible tax?  
**ANSWER:** Per Rule 12B-4.053(27), F.A.C., an assignment of a mortgage given as collateral security for a new loan is treated as a new mortgage and subject to documentary stamp taxes when recorded in the state. Nonrecurring intangible taxes are not due on a collateral assignment of a mortgage, since a note secured by a collateral assignment of note and mortgage is a note secured by personal property, not real property.

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**TAX:** Documentary Stamp and Intangible Taxes  
**TAA NUMBER:** 06M-005  
**ISSUE:** Reverse 1031 exchange  
**STATUTE CITE(S):** Sections 201.02(1) and 199.133(1), F.S.  
**RULE CITE(S):** Rules 12B-4.014(5) and 12C-2.004(2), F.A.C.  
**QUESTION:** Will documentary stamp tax and intangible tax be due only once in a series of related transaction in which the accommodator/intermediary acted as an agent of the exchanger? Also will documentary stamp tax and intangible tax be due on the mortgage assumption agreement?  
**ANSWER:** Since the terms of the agreement constitute an agency/principal relationship between the accommodator and exchanger, no additional documentary stamp tax or intangible tax will be due on the note or mortgage assumption to place the real property and lien in the name of the exchanger.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-001  
**ISSUE:** Purchase of materials for public works  
**STATUTE CITE(S):** 212.08(6), F.S.  
**RULE CITE(S):** 12A-1.038, 12A-1.051, 12A-1.094, F.A.C.  
**QUESTION:** Do the procedures for the purchase of materials set out in the contract for the construction of public works meet the legal requirements for the County to purchase the materials tax exempt?  
**ANSWER:** The procedures provided do not meet the legal requirement for the County to purchase the materials tax exempt. The procedures do not contain the following necessary provisions:

1. The governmental entity must execute the purchase orders for the tangible personal property involved in the contract, which must include the governmental entity’s consumer’s certificate of exemption number.  
2. The governmental entity must acquire title to and assume liability for the tangible personal property from the point in time when it is delivered to the job site up until the time it is incorporated as real property.  
3. Vendors must directly invoice the governmental entity for supplies.  
4. The governmental entity must assume all risk of loss or damage for the tangible personal property involved in the contract, as indicated by the entity’s acquisition of, or inclusion as the insured party under, insurance on the building materials.  

The provisions meet only one of the requirements to make a tax exempt purchases—the provisions indicate that the county will issue payment directly to the vendor.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-002  
**ISSUE:** Concessionaire services at publicly owned recreational facilities—sales tax on rent  
**STATUTE CITE(S):** Section 212.031, Florida Statutes (“F.S.”)  
**RULE CITE(S):** N/A  
**QUESTION:** Is the consideration paid to the county by persons providing food and drink concessionaire services within the premises of publicly owned recreational facilities exempt from Florida sales tax by s. 212.031(1)(a)10., F.S.?  
**ANSWER:** The consideration paid by the concessionaires to a county, at county-owned beaches, aquatic center and library, is not subject to Florida sales tax (otherwise imposed by s. 212.031, F.S.) because the “concession agreements” fall within the scope of the exemption found at s. 212.031(1)(a)10., F.S.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-003  
**ISSUE:** Facility expansion project  
**STATUTE CITES:** Section 212.08(5)(b), F.S.  
**RULE CITE(S):** Rule 12A-1.096, F.A.C.  
**QUESTION 1:** Does an expansion project at a company's Facility A qualify for exemption under the provisions of s. 212.08(5)(b)2., F.S., as an expanding business?  
**ANSWER 1:** Following the company's submission of an application for Temporary Tax Exemption Permit to the Department of Revenue and following an affirmative
showing that the productive output of products produced at Facility A has increased by not less than 10 percent, the company would qualify for exemption as an expanding business pursuant to s. 212.08(5)(b)2., F.S.

**QUESTION 2:** Should the productive output of Facility B, also owned by the company, be used in the determination of the increase in productive output for the company’s expansion project at Facility A?

**ANSWER 2:** Since work-in-process of products is not transferred between the first and second facilities, the productive output of Facility B will not be used in the calculation of the increase in productive output.

**QUESTION 3:** Will the closure of Facility B impact the company’s ability to qualify for exemption as an expanding business under the provisions of Section 212.08(5)(b)2., F.S.?

**ANSWER 3:** The company’s ability to qualify for exemption as an expanding business will not be affected by the closure of Facility B.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-006  
**ISSUE:** Construction of combined cycle electric generating plant  
**STATUTE CITE(S):** Section 212.08(5)(c), F.S.  
**RULE CITE(S):** None

**QUESTION:** Do all purchases of machinery and equipment and components, as enumerated in an attachment to the TAA request, for a combined cycle and gasification facility at an electrical generating facility qualify for exemption under s. 212.08(5)(c), F.S.? The attachment divided the purchases into the following major categories: “Indirects,” “Combined Cycle,” “Fuel Facilities,” “Gasification Facilities,” and “Balance of Plant.”

**ANSWER:** All purchases for the categories of “Combined Cycle” and “Gasification Facilities” qualify for exemption under s. 212.08(5)(c), F.S. Purchases in the category “Indirects” do not qualify for exemption under s. 212.08(5)(c), F.S., but may qualify for exemption as professional services under s. 212.08(7)(v), F.S. All purchases in the category “Fuel Facilities,” except above ground fuel storage tank systems, qualify for exemption under s. 212.08(5)(c), F.S. In the category “Balance of Plant,” only those purchases representing sub-surface improvements or foundations and shelter for qualifying machinery and equipment, and process water systems qualify for exemption under s. 212.08(5)(c), F.S.

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**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-007  
**ISSUE:** Test kits and prescription medical products  
**STATUTE CITE(S):** Section 212.08(2), F.S.  
**RULE CITE(S):** Rule 12A-1.020(6), F.A.C.

**QUESTION:** What is the taxable status of test kits and one-time use prescription medical products?

**ANSWER:** Diagnostic test kits, calibration and control materials, and the related chemical compounds and substances are exempt from tax. Additionally, an exemption is provided for consumable medical products which carry the “RX” labeling.
TAX: Sales and Use Tax  
TAA NUMBER: 07A-008  
ISSUE: Drop Shipment  
STATUTE CITE(S): Sections 212.02(15)(a), 212.05, and 212.06(1)(a), F.S.  

QUESTION: Is a vendor/drop shipper, located outside Florida but registered as a Florida dealer, obligated to collect sales tax on a sale to a customer that is an unregistered dealer located outside Florida, with no tax nexus with this state, in the instance where the vendor/drop shipper ships the merchandise by common carrier to the customer’s buyer in Florida?  

ANSWER: The vendor/drop shipper is not obligated to collect tax from the out-of-state dealer in the instance where the merchandise is shipped into Florida by common carrier. The transaction is not a Florida sale when the vendor/drop shipper and the dealer are both out of the state and the goods are shipped into the state by common carrier.

TAX: Sales and Use Tax  
TAA NUMBER: 07A-009  
ISSUE: Lease of recreational facility  
STATUTE CITE(S): Section 212.031(1)(a)10., F.S.  
RULE CITE(S): Rule 12A-1.070, F.A.C.  

QUESTION 1: Are payments made for the lease of a restaurant located on a municipal beach not taxable for sales tax under the provisions of s. 212.031(1)(a)10., F.S., for property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services at a publicly owned recreational facility?  

ANSWER 1: The municipality owns the beach, which includes within its boundaries a restaurant that also provides public restrooms, wooden umbrellas, beach accessories, etc. A beach, which is traditionally used for “play, amusement, or relaxation,” is a “recreational facility” under any plain meaning of that phrase. Rule 12A-1.070(1)(b)3., F.A.C., provides that the term “retail concessionaire,” which may be either a lessee or licensee, shall mean “any person who makes sales of food or drink directly to the general public within the premises of a …publicly owned …recreational facility….” Accordingly, the lessee is a concessionaire, and the property is a publicly owned recreational facility. Therefore, payments of base rent and percentage rents under the lease would not be taxable.

QUESTION 2: Does the fact that the lessee has a management agreement with an operator to manage the restaurant, and the operator makes the rent payments directly to the lessor on behalf of the lessee affect the taxable status of such payments?  

ANSWER 2: The lease between the lessee and the city was determined to be for real property leased, subleased, licensed or rented to a person providing food and drink concessionaire services. The “Management Agreement” between the lessee and the operator provides that the operator will perform all obligations of the lessee including, without limitation, timely payment and performance of the lease agreement including, without limitation, the payment of rent and additional rent.

The fact that Operator pays the rent and percentage rent directly to City does not nullify the exemption provided under s. 212.031(1)(a)10., F.S.

QUESTION 3: Is the operator eligible to claim a refund of taxes paid directly to the lessor, with a properly executed assignment of rights from the lessor?  

ANSWER 3: Pursuant to s. 215.26(1), F.S., Florida’s Chief Financial Officer may refund taxes, where no taxes were due, to the person who paid them, or to his or her assigns. Therefore, the operator is eligible to claim a refund of taxes paid directly to the lessor, with a properly executed assignment of rights from the lessor.

TAX: Sales and Use Tax  
TAA NUMBER: 07A-010  
ISSUE: Firing range  
STATUTE CITE(S): 212.02, 212.031, 212.06, 212.08, 212.11, 212.12, 212.18, F.S.  
RULE CITE(S): None  

QUESTION: Are the charges to use the county’s firing range subject to tax? If so, what are the reporting and record keeping requirements?  

ANSWER: The License and Hold Harmless Agreement clearly describes a license to use the facility. Section 212.031(1)(a), F.S., imposes tax on the granting of a license to use real property. The reporting and record keeping requirements for the county are the same as for any dealer.
**Facts on Tax**

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-011  
**ISSUE:** Related party real property rentals—identifying taxable rent consideration  
**STATUTE CITE(S):** Sections 212.02, 212.031, 213.22, and 608.471, F.S.  
**RULE CITE(S):** Rule 12A-1.070, F.A.C.  

**QUESTIONS:**  
(1) Is there is a landlord and tenant relationship when there is no written lease agreement between the person occupying a piece of real property and the person (a different person) that owns the piece of real property?  
(2) Are periodic distributions made by the occupant of a piece of real property to the related ownership of the owner of the piece of real property are “rental consideration” subject to Florida sales tax under s. 212.031, F.S.?

**ANSWERS:** There is a landlord/tenant relationship present because one person is occupying the real property of another person.  

The owners of the piece of real property are “in the business” of renting, as they have created this business arrangement for specific business benefits (i.e., to insulate the landlord from the liabilities associated with the tenant).  

The money (distributions) flowing from the tenant to landlord (via the natural persons) is rental consideration because part of the money (distributions) will ultimately be used to satisfy the property’s expense obligations.  

If the parties can reasonably identify the amount of the property’s expense obligations, then Florida sales tax would only be due on the amount equal to the property’s expense obligations. Otherwise, the Department will view all of the distributions flowing from the tenant to the natural persons as rental consideration subject to Florida sales tax under Section 212.031, F.S.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-012  
**ISSUE:** Raw food kits sold in a retail store for consumption off the seller’s premises  
**STATUTE CITE(S):** 212.05, 212.08(1)(c)9., F.S.  
**QUESTION:** Are raw food kits that contain a mix of ingredients such as meats, sauces, spices, and pasta subject to sales tax? The kits are assembled by the customer and packaged in re-sealable plastic bags or aluminum trays for further cooking by the customer. The raw food kits are not ready for immediate consumption.  

**ANSWER:** S. 212.08(1), F.S., exempts the sale of food products for human consumption. The exemption does not apply to food products cooked or prepared on the seller’s premises and sold for immediate consumption. Since the raw food kits are not sold for immediate consumption, but for further cooking by the customer away from the seller’s premises, they are exempt from sales tax.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-013  
**ISSUE:** Sales by religious organizations/churches  
**STATUTE CITE(S):** Section 212.08, F.S.  
**RULE CITE(S):** None  

**QUESTION:** May the church-owned thrift shop cease collecting sales tax on its sales of tangible personal property?  

**ANSWER:** Sales from tangible personal property, such as clothing and household goods, are exempt from tax when they are sold by churches. As long as the thrift shop is operated by the church as part of the same legal entity, and the thrift shop is not organized as a separate legal entity, sales of tangible personal property by the thrift shop (church) are exempt from tax.

**TAX:** Sales and Use Tax  
**TAA NUMBER(S):** 07A-014 and 07A-015  
**ISSUE:** Use tax on boat  
**STATUTE CITE(S):** 212.02(2), (20), 212.05, and 212.06(1), (2), (4), (6), (7), (8), and 328.58, F.S.  
**RULE CITE(S):** 12A-1.007(2)(a), (9)(b)1.b., (9)(b)2., and 12A-1.091(2)(a), F.A.C.  

**QUESTION:** Is a boat purchased outside of Florida, and used outside of Florida subject to Florida’s use tax upon importation into Florida?  

**ANSWER:** If a boat purchased outside of Florida and allowed to enter Florida during the first six months of the taxpayer’s ownership for limited periods of time not to exceed 90 continuous days, or an aggregate of 183 days in any one year period is not subject to the tax.

**TAX:** Sales and Use Tax  
**TAA NUMBER:** 07A-016  
**ISSUE:** Whether the payments made, pursuant to a Mineral Rights Agreement, are subject to sales tax.  
**STATUTE CITE(S):** Section 212.031, F.S.  
**RULE CITE(S):** 12A-1.070, F.A.C.  

**QUESTION:** Are the payments made to a property owner from a company with rights to engage in mineral extraction subject to sales tax?  

**ANSWER:** Based on Facts Below: The payments in question are not payments for the lease/license to use real property. Rather, the parties have entered into a management agreement, and, as such, the payments are not subject to tax pursuant to Section 212.031, F.S.
TAX: Sales and Use Tax  
TAA NUMBER: 07A-017  
ISSUE: Fabrication of tangible personal property  
STATUTE CITE(S): Sections 212.02 and 212.05, F.S.  
RULE CITE(S): Rule 12A-1.024, F.A.C.  

QUESTION: Is cutting logs into lumber for customers a taxable activity?  

ANSWER: The cutting of logs into usable lumber would be subject to tax under section 212.05, F.S. The lumber cut from the logs provided by customers would be considered fabrication, because the original state of the logs has been altered. The fabricated lumber would constitute tangible personal property. The act of fabricating tangible personal property for a consideration is a taxable privilege, even if the tangible personal property belongs to another. This privilege would be taxed at 6 percent of the sales price, which would include any labor charges. In addition, any local discretionary surtax imposed by the county where the transaction occurs must be applied. Consequently, the charges imposed on customers would be fully taxable.

TAX: Documentary Stamp Tax  
TAA NUMBER: 07B4-001  
ISSUE: Conveyance of real property from individual to artificial entity  
STATUTE CITE(S): Section 201.02(1)  
RULE CITE(S): Rule 12B-4.013(32)(i), F.A.C.  

QUESTION: In the case of a proposed conveyance of unencumbered real property owned by an individual to a limited liability company of which the sole beneficiary is a revocable trust, are documentary stamp taxes due if the individual is the sole settler of the revocable trust and the sole beneficiary during his lifetime?  

ANSWER: Per Rule 12B-4.013(32)(i), F.A.C., a deed to a trustee of a revocable trust from a grantor having the power to revoke the trust instrument and a deed back to the grantor upon revocation of the trust are not taxable transfer of ownership. In this case, even though the transfer is not directly from the individual to the trust, the conveyance is not taxable as no change in beneficial ownership has occurred since the individual is the beneficiary of the trust which in turn is the beneficiary of the limited liability company.

TAX: Corporate Income  
TAA NUMBER: 07C1-001  
ISSUE: Request for authority to discontinue consolidated filing  
STATUTE CITE(S): Section 220.131(1), (2), and (3), F.S.  
RULE CITE(S): Rule 12C-1.0131, F.A.C.  

QUESTION: May an affiliated group be granted permission to cease filing Florida consolidated corporate income tax returns when it is purchased by another company and merged into an existing affiliated group that has not elected to file Florida consolidated corporate income tax returns?  

ANSWER: Yes. The parent company was granted permission to cease filing Florida consolidated corporate income tax returns based on provisions of the F.A.C. that address changes in business activities.
You can pay certain Florida tax bills online with an e-Check or credit card. If you have received a Notice of Amount Due or a Demand for Payment for any of the following taxes, you may be able to pay the bill online.

- Sales and use
- Solid waste
- Corporate income
- Communications services
- Gross receipts
- Documentary stamps
- Pollutants
- Motor fuels

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### Tax Information Publications

The following is a list of Tax Information Publications (TIPs) issued by the Department from September 11, 2006 to June 30, 2007. To receive a copy of any of these publications, visit our Internet site or call Taxpayer Services, Monday-Friday, 8 am to 7 pm ET, at 800-352-3671.

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*Date Issued: December 1, 2006*

**TIP # 06A01-19**  
Notice to Semiannual and Annual Sales and Use Tax Filers  
*Date Issued: December 4, 2006*

**TIP # 06A01-23**  
Gilchrist County Adds Two Percent Tourist Development Tax Beginning January 1, 2007  
*Date Issued: December 8, 2006*

**TIP # 06B05-04**  
Fuel Taxes Adjusted Beginning January 1, 2007  
*Date Issued: December 8, 2006*

**TIP # 06B05-05**  
Effective Immediately, Undyed Biodiesel Fuel May Be Mixed with Dyed Diesel By Licensed Wholesalers and Blenders  
*Date Issued: December 8, 2006*

**TIP # 06B07-01 REVISED**  
Solid Mineral Tax Rates for Year 2006  
*Revised: December 15, 2006*

**TIP # 06B07-03**  
Miami-Dade County Lake Belt Mitigation and Water Treatment Plant Upgrade Fee Rates Beginning January 1, 2007  
*Date Issued: December 15, 2006*

**TIP # 06A01-24**  
Motor Vehicle Sales Tax Rates by State as of December 18, 2006, and Tax Credit Application  
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**TIP # 06B04-01**  
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**TIP # 06A19-09**  
Local Communications Services Tax Rate Change Effective February 1, 2007, City of Hialeah  
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**TIP # 07C02-01**  
Repeal of Annual Intangible Personal Property Tax  
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**TIP # 07A01-01**  
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**TIP # 0760BB-01**  
Unemployment Tax—Single Member LLCs  
*Date Issued: January 12, 2007*

**TIP # 06B05-06**  
A Clarification to Reporting Requirements for Local Government Users and Mass Transit System Providers  
*Date Issued: January 12, 2007*

**TIP # 07B8-01**  
Police Officers’ Pension Trust Funds Excise Taxes on Insurance Premiums, Chapter 185, F.S. Electronic Address/Jurisdiction Database for Determination of Insurance Premium Tax Situsing Use of the PLACE_NAME Field  
*Date Issued: January 19, 2007*

**TIP # 07A01-02**  
Bradford County Increases Tourist Development Tax from Two Percent to Four Percent Beginning March 1, 2007  
*Date Issued: February 1, 2007*

**TIP # 07C01-01**  
Corporate Income Tax and Franchise Tax. Florida Renewable Energy Production Tax Credit, s. 220.193, F.S.  
*Date Issued: March 15, 2007*

**TIP # 07B07-01**  
Local Communications Services Tax Rate Change Effective June 1, 2007, City of Altamonte Springs  
*Date Issued: April 16, 2007*

**TIP # 07A01-03**  
Hendry County Increases Tourist Development Tax from Two Percent to Three Percent Beginning May 1, 2007  
*Date Issued: April 18, 2007*

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*Date Issued: April 30, 2007*

**TIP # 07B07-02**  
Gas & Sulfur Production Tax Rates for 2007-2008  
*Date Issued: May 18, 2007*
TIP 07B05-01
Local Government Users and Mass Transit Systems That Manufacture Biodiesel for Their Own Use or For Sale Must Be Licensed as Wholesalers
Date Issued: May 22, 2007

TIP 07B06-01
Gross Receipts Tax Index Prices for the Period July 1, 2007, Through June 30, 2008
Date Issued: May 23, 2007

TIP 07ADM-01
Floating Rate of Interest for Most Taxes and Fees Remains 12 Percent For the Period July 1, 2007, Through December 31, 2007
Date Issued: June 1, 2007

TIP 07C01-002
Florida Corporate Income Tax “Piggybacks” 2007 Internal Revenue Code
Date Issued: June 1, 2007

TIP 07A01-08
Exemption Extended for Labor, Repair, Maintenance, Sales, And Leases of Certain Aircraft
Date Issued: June 25, 2007

TIP 07B06-02
Gross Receipts Tax for Utility Services Change in Due Date for Tax Returns and Payments
Date Issued: June 27, 2007

TIP 07ADM-02
New Law Allows Statistical Sampling of Fixed Assets
Date Issued: June 29, 2007

TIP 07C03-01
Estate Tax Return Zero Filing Requirements
Date Issued: June 29, 2007

TIP 07A01-09
Certain Delivery Charges Are Not Subject To Florida Sales And Use Tax
Date Issued: June 29, 2007

TIP 07A01-10
Capital Improvements Made by Those Renting Real Property From the Florida Turnpike Enterprise Are Not Subject to Commercial Rent Tax Beginning July 1, 2007
Date Issued: June 29, 2007