



# Sales and Use Tax on Concession Stands

GT-800003  
R. 10/09

## What concession stand owners and operators need to know

### What is Taxable?

Sales of food, drinks, tobacco products, and other items of tangible property with a sales price of 10 cents or more are taxable when made from concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, street corners, and similar places of business. Concession stand examples include hot dog stands, ice cream and yogurt stands, snow cone stands, and tobacco stands. All concession stand operators must collect sales tax and applicable discretionary sales surtax, unless exempt.

### What is Exempt?

Sales and use tax does not apply to the lease, sublease, license, or rental of real property to a person providing food and drink services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or pari-mutuel facility.

A roadside stand does not collect tax on the sales of natural fruit and vegetable juices if the Department of Business and Professional Regulation does not require it to have a license. However, if you sell soft drinks or other taxable items, you must collect sales tax and applicable discretionary sales surtax on the taxable items.

Religious institutions that regularly conduct nonprofit religious services at established places of worship do not collect tax on the taxable items sold at their concession stands.

Fund-raising events, held no more than two times in a 12-month period, that meet all the requirements provided in Rule 12A-1.037, Florida Administrative Code, are not required to charge tax. However, you must pay the applicable taxes to your supplier.

Food sold as part of a school lunch to students, teachers, school employees, or school guests in public, parochial, or nonprofit schools (grades K through 12) is not taxable.

### How Tax is Calculated on Concession Sales

When it is impractical to separately state the tax, the following rate may be used:

County Sales Tax Rate	Concession Stand Effective Tax Rate
6.0%	1.0659
6.25%	1.0678
6.5%	1.0697
6.75%	1.0724
7.0%	1.0751
7.25%	1.0773
7.5%	1.0795
7.75%	1.0817
8.0%	1.0839

Gross receipts divided by the effective tax rate equals gross sales. Gross receipts minus gross sales equals the tax. In this example, the concession stand is operated in a county **without** a surtax (6% tax rate).

**Example:**

$$\begin{array}{ccccccc}
 \$100.00 & \div & 1.0659 & = & \$93.82 \\
 \uparrow & & \uparrow & & \uparrow \\
 \text{gross receipts} & & \text{effective tax rate} & & \text{gross sales}
 \end{array}$$

\$100.00	gross receipts
- <u>\$93.82</u>	gross sales
\$6.18	Tax Due

## Which Rentals are Taxable?

### Rental of Stand

The lease, rental, or license to use a concession stand is taxable unless specifically exempt. The concession stand owner (lessor) collects the tax (sales and surtax) from the operator (lessee). The tax is on the lease amount that the lessor receives from the lessee.

### Real Property Rentals

If the concession stand operator places the stand at another person's location, the arrangement between the operator and the location owner is a taxable lease or license to use real property. The location owner (lessor) collects the tax (sales and surtax) from the concession stand operator (lessee). The tax is on the total rental consideration that the lessor receives from the lessee.

## Who Must Register to Collect Tax?

Owners leasing concession stands to an operator are required to register and collect sales tax at the rate of 6 percent **plus any local discretionary sales surtax** from the operator on the **lease amount** they receive.

Location owners, if not already registered for some other purpose, are required to register and collect sales tax at the rate of 6 percent **plus any local discretionary sales surtax** on the **commission** they receive from the operator for the license to use real property.

Operators selling taxable items from a concession stand are required to register, collect, and remit sales tax and the applicable discretionary sales surtax.

## How to Register

You can register to collect and/or report tax through our Internet site; go to

**[www.myflorida.com/dor](http://www.myflorida.com/dor)**

The site will guide you through an application interview that will help you determine your tax obligations. If you do not have Internet access, you can complete a paper *Application to Collect and/or Report Tax in Florida* (Form DR-1).

## When Is Tax Due?

Returns and payments are due on the 1st and late after the 20th day of the month after each collection period. For example, if a sale takes place on the 1st of one month, then tax is not due until the 1st of the next month.

Returns and payments postmarked after the 20<sup>th</sup> are late. However, if the 20<sup>th</sup> falls on a Saturday, Sunday, or federal or state holiday, returns and payments will not be late if they are postmarked on the first business day after the 20<sup>th</sup>.

## Penalty and Interest

If your returns and payments are not postmarked or hand-delivered on or before the due date, you will owe a late **penalty** of 10 percent of the amount of tax due, but no less than \$50. The \$50 minimum penalty applies even if no tax is due. Penalty will also be assessed if the return or payment is submitted on time but is incomplete.

A floating rate of **interest** applies to underpayments and late payments of tax. We update the rate January 1 and July 1 of each year by using the formula in section 213.235, Florida Statutes. Current and prior period interest rates are posted on our web site.

## Electronic Filing and Payment

We offer the use of our free and secure Internet site to file and pay sales tax, or you may buy software from an approved vendor. If you would like to voluntarily file and pay taxes electronically, you may do so. However, if you pay \$20,000 or more in sales and use tax between July 1 and June 30 (the state fiscal year), you must use electronic funds transfer (EFT) for the next calendar year. We will send you instructions for filing by EFT.

## Reference Material

### Tax Laws

Our online Tax Law Library contains statutes, rules, legislative changes, opinions, court cases, and publications. Search the law library for Rules 12A-1.011, 12A-1.037, 12A-1.070, 12A-1.080, and 12A-15.010, Florida Administrative Code.

### Brochures

You can download all of our brochures from our "Forms and Publications" page. Examples include:

- *Tangible Personal Property Rentals*
- *Commercial Real Property Rentals*
- *Amusement Machines*
- *Vending Machines*

## For Information and Forms

Information and forms are available on our Internet site at: [www.myflorida.com/dor](http://www.myflorida.com/dor)

To speak with a Department of Revenue representative, call Taxpayer Services, Monday through Friday, 8 a.m. to 7 p.m., ET, at 800-352-3671.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a written reply to tax questions, write:

Taxpayer Services  
Florida Department of Revenue  
5050 W Tennessee St Bldg L  
Tallahassee FL 32399-0112

### **Get the Latest Tax Information**

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- Tax Information Publications (TIPs).
- *Facts on Tax*, a quarterly publication.
- Proposed rules, notices of rule development workshops, and more.

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