



facts on TAX

October 2009

Did you know? The Department offers web-based training for sales and use tax filers. Learn from your home or office and work at your own pace. Go to our [taxpayer education page](http://dor.myflorida.com/dor/taxes/education.html) [link to <http://dor.myflorida.com/dor/taxes/education.html>] and select from 5 tutorials. They will guide you through reporting activities such as completing your return, calculating discretionary sales surtax, estimating sales and use tax, and reporting for motor vehicle dealers. **Check it out!**

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Rules Adopted/Repealed

Corporate Income Tax:

[12C-1.0222](#) Returns; Extensions of Time; Payments of Tentative Tax

[12C-1.032](#) **REPEALED:** Payments of Tentative Tax

Documentary Stamp Tax:

12BER09-04 Tax on Transfers of Ownership Interest in Legal Entities

Insurance Premium Taxes, Fees and Surcharges:

12B-8.001 Premium Tax, Rate, and Computation

Sales and Use Tax:

12A-1.004 Sales Tax Brackets

12A-1.011 Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice

12A-1.0115 Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates

12A-1.039 Sales for Resale

12A-1.060 Registration

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations

12A-1.071 Rentals, Leases, and Licenses to Use Tangible Personal Property

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors

12A-1.097 Public Use Forms (adopted 7/28/09 effective 9/1/09)

12A-1.097 Public Use Forms (adopted 9/29/09 effective 11/3/09)

Tax Information Publications

Communications Services Tax:

09A19-02 Changes in Local Communications Services Tax Rates Effective January 1, 2010

Corporate Income Tax:

09C01-03 2009 Internal Revenue Code Piggyback Florida Adjustments for Special 50% Bonus Depreciation, Section 179 Expense, and Deferred Cancellation of Indebtedness Income

Motor and Other Fuel Taxes:

09B05-01R **REVISED:** Reporting and Paying Tax on Fuel Grade Ethanol

Sales and Use Tax:

09A01-06 Mail-in Secondhand Precious Metals Dealers and Other Chapter 538, Florida Statutes, Changes in Law

09A01-11 Car Allowance Rebate System – Consumer Assistance to Recycle and Save Act of 2009

09A01-12 Department of Revenue Will Begin Collecting Wakulla County Tourist Development Tax

Severance Taxes and Fees:

09B07-03R **REVISED:** Tertiary Oil Severance Tax

Unemployment Tax:

0960BB-01 Unemployment Tax Increased Taxable Wages and Maintenance of a Higher Earned Tax Rate

Technical Assistance Advisements

Documentary Stamp Tax/ Nonrecurring Intangible Tax:

09B4-005 Line of Credit

Sales and Use Tax:

- [09A-032](#) Real Property Rental Port Authority Exemption
- [09A-033](#) Purchase of Materials for a Public Works Contract
- [09A-034](#) Qualifying Contract with US Government for exempt purchases
- [09A-035](#) Purchase of Materials by Exempt Entity Construction Contract
- [09A-036](#) Software Updates
- [09A-037](#) Trade Show Subleases
- [09A-038](#) Trade-Ins
- [09A-039](#) Manufacture of Materials for a Public Works Contract; Calculation of Fabricated Cost

- [09A-041](#) Motor Vehicle Lease Trade-In
- [09A-042](#) Propane Heater for Farm Use exempt from Sales and Use Tax
- [09A-043](#) Public Works Contracts
- [09A-044](#) Custom Websites

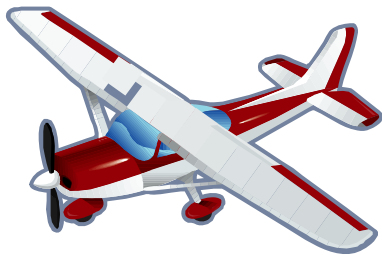
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Current Topics

for the Period: July 1 - September 30, 2009

Aircraft and Florida's Sales and Use Tax



People who own and use aircraft play an important part in Florida's economy. Florida's tourism industry benefits when people visit Florida using their aircraft. This includes "fly-ins" and other events that attract pilots and aircraft enthusiasts. Further, Florida is often a destination for conventions and other business-related activities where people use their aircraft to visit Florida.

Florida's sales and use tax is a significant part of Florida's overall tax system. Like any other item, using an aircraft in Florida has potential sales and use tax implications for the aircraft owner. Since the cost of aircraft is significant, the tax implications can also be significant.

Out-of-state aircraft owners have legitimate questions and concerns about incurring Florida's use tax when they fly their aircraft into Florida. The application of Florida's law in this area is often fact specific, and, unfortunately, there is no "bright line" for owners to use to determine when they will become subject to the use tax.

In an effort to provide guidance to aircraft owners, the Department of Revenue strives to provide as much information as possible so owners can make informed decisions. This article contains answers to some common questions that arise concerning the taxation of aircraft used in Florida.

- 1. I live outside Florida, have never had my aircraft in Florida, do not own property in Florida, and have no other connections to the State. If I use my aircraft to come to Florida for a vacation, am I subject to use tax?**

ANSWER: Generally, no. No specific statute or court decision has ever imposed Florida's use tax on an aircraft owner that has no significant connections to the state, did not purchase the aircraft in Florida, and is merely using his or her aircraft to travel to Florida for recreational purposes.

- 2. I have owned my aircraft for several years and have never used my aircraft in Florida. How does the use tax apply if I fly into Florida?**

ANSWER: Under those specific circumstances, use tax would not apply. Florida law presumes that items (including aircraft) purchased and used outside of Florida for six months prior to being brought into the state were not purchased for use in Florida, and therefore are not subject to Florida's use tax.¹

- 3. Does the Department of Revenue attend "fly-ins" specifically to enforce Florida's use tax?**

ANSWER: No. The Department does not attend "fly-ins" or conduct ramp checks as part of its use tax enforcement program. The focus of the Department's use tax enforcement activities is on aircraft whose owners have a significant connection to Florida (such as Florida residency, ownership of Florida real estate, being an officer in a Florida corporation, etc.)

- 4. Does Florida's use tax depend on the type of entity that owns a particular aircraft (i.e., individuals, corporations, businesses, partnerships or other legal entities)?**

ANSWER: No. The form of ownership is not the determining factor in the imposition of use tax. Rather, the nature and extent of contact with Florida are the determining factors.

Many aircraft owners and organizations are working with Florida legislators to develop a "bright line" time frame that aircraft can remain in the state without incurring use tax. Until then, the Department must continue to rely on Florida's general use tax law, as interpreted by Florida's courts.

For further information, please contact the Department of Revenue's aircraft information unit at (850) 922-0668.

¹ Different rules may apply to aircraft purchased and/or used outside of the United States.



Documentary stamp tax reference sheet can help you calculate tax correctly

The Department has seen an increase in documentary stamp tax audit assessments. The increase is primarily the result of insufficient tax paid on documents that transfer an interest in Florida real property. Therefore, the Department has developed a reference sheet as an aid in determining the appropriate amount of documentary stamp tax due on warranty deeds, quit claim deeds, and other documents that transfer an interest in Florida real property.

To view the Documentary Stamp Tax Reference Sheet click:

<http://dor.myflorida.com/dor/tips/pdf/tip08b04-01.pdf>



DOR Internet Redesign Coming in November

We've listened to customer feedback over the years and are redesigning our Internet site to make it easier to use. The content and navigation is all that will change – Internet applications (file and pay, registration, certificate lookup, etc.) will remain the same. The site change will take effect in November. Your bookmarks will still work; however, we encourage you to update them when you visit the website in November.

Changes that may be of interest to you are additional navigation options on all homepages, the consolidation of e-Services pages, new content pages for each tax, and an updated look and feel.



News
Releases

News Releases

for the Period: July 1 - September 30, 2009

October 7, 2009

Owner of Ocala Electrical Supply Business Arrested

The owner of a now closed Marion County business that specialized in electrical supplies was arrested on charges that she failed to file six consecutive returns, the Florida Department of Revenue announced.

Debra Mooney Strade, 45, of Ocala, was arrested by the Hillsborough County Sheriff's Department on September 26, 2009 on a felony charge of failure to file six consecutive returns. If convicted, she faces up to 5 years in prison and up to \$5,000 in fines, as well as possible tax, interest, penalty, and investigative costs. Ms. Strade owned Paramount Supply, Inc., 710 South West 20th Street, Suite 5, Ocala.

Revenue Department investigators determined that Ms. Strade routinely collected tax from customers at her business. However, during various periods beginning in 2008 through periods in 2009, she failed to file her tax returns as required by law.

September 28, 2009

Tallahassee Restaurant Owner Arrested

The owner of the Mediterranean Grill restaurant located on Apalachee Parkway in Tallahassee has been arrested, the Florida Department of Revenue announced.

Sharl Helmy Sultan, 49, of Tallahassee, was arrested by the Leon County Sheriff's Department on September 25 on felony and misdemeanor charges relating to his failure to file six consecutive tax returns and his refusal to pay taxes due. If convicted, he faces up to 5 years in prison and up to \$5,000 in fines, as well as possible payment of tax, interest, penalty, and investigative costs. The business is located at 1500 Apalachee Parkway, Suite 1026, Tallahassee, Florida and it is closed.

Mr. Sultan routinely collected tax from customers at his business. However, during various periods in 2007, he failed to file the required tax returns and refused to pay the taxes he collected.

September 23, 2009

Hillsborough County Restaurant Owner Arrested

The owner of a Hillsborough County restaurant has been arrested on charges that he failed to file six consecutive returns and refused to pay taxes due, the Florida Department of Revenue announced.

Rodney R. Lopez, 45, of Tampa, was arrested by the Hillsborough County Sheriff's Department on September 22, 2009 on felony and misdemeanor charges. If convicted, he faces up to 5 years in prison and up to \$5,000 in fines, as well as possible tax, interest, penalty, and investigative costs. Mr. Lopez owns Lopez Enterprises of Tampa that does business as Uncle Rodney's Rib House, 5712 South MacDill Avenue, Tampa.

According to Revenue Department investigators, Mr. Lopez routinely collected tax from customers at his business. However, during various periods beginning in 2006 through periods in 2009, he failed to file his tax returns as required by law.

September 21, 2009

Plant City Bar Owner Arrested

The Florida Department of Revenue announced that Joseph Hailey, Jr. the owner of Big Dog's Patio was arrested by the Hillsborough County Sheriff's Department on September 18, 2009.

Mr. Hailey turned himself in on felony charges relating to failure to file six consecutive tax returns. If convicted, he faces up to 5 years in prison and up to \$5,000 in fines, as well as

possible payment of tax, interest, penalty, and investigative costs. Mr. Hailey owned and operated Big Dog's Patio, 103 North Palmer Street in Plant City.

Department investigators found that Mr. Hailey routinely collected tax from customers at his business. However, during various periods between June 2008 and November 2008, he failed to file the required tax returns.

September 16, 2009

Panama City Auto Repair Shop Owner Arrested

The owner of Whitehead's Automotive has been arrested, the Florida Department of Revenue announced today, on charges that he kept more than \$12,500 in sales tax he collected from customers but failed to send in to the state.

Fred William Whitehead, 40, of Panama City, was arrested by the Bay County Sheriff's Department on September 15, 2009 on felony charges related to theft of state funds and failure to file six consecutive tax returns. According to Revenue Department investigators, Mr. Whitehead routinely collected tax from customers at his business. However, during various periods beginning in January 2005 through February 2009, investigators found that Mr. Whitehead had illegally kept over \$12,500 of sales taxes he collected from his customers and failed to file the required sales tax returns. Under state law, sales tax is the property of the state at the moment of collection. If convicted, he faces up to 5 years in prison and up to \$5,000 in fines on each charge, as well as possible repayment of stolen tax, interest, penalty, and investigative costs. Mr. Whitehead owns and operates Whitehead's Automotive, Transmitter Road, Panama City.

September 15, 2009

Operator of a Convenience Store and a Beauty Supply Store Arrested in Tax Theft Case

The operator of a closed Escambia County convenience store and a closed beauty supply store has been arrested on charges that she stole more than \$48,000 in sales tax she collected from customers, but failed to send in to the state, the Florida Department of Revenue announced.

Tania Michelle Cunningham 36, of Century, surrendered to the Escambia County Sheriff's Department on September 8, 2009 on numerous felony and misdemeanor charges related to theft of state funds. If convicted, she faces up to 5 years in prison and up to \$5,000 in fines for each felony and up to 1 year in jail and \$1,000 in fines for each misdemeanor, as well as possible repayment of stolen tax, interest, and investigative costs. Ms. Cunningham operated Kim's Mini Mart, 8130 North Century Blvd. and Kim's Beauty World, 9420 North Century Blvd. in Century.

Ms. Cunningham routinely collected tax from customers at the businesses, say Department of Revenue investigators. However, during various periods beginning in 2004 through 2006, she failed to send to the state all of the sales taxes that she had collected. Under state law, sales tax is the property of the state at the moment of collection.

September 10, 2009

Fort Myers Contractor Arrested for Theft of Taxes

The owner of a now closed Lee County company specializing in the sales and installation of hurricane shutters has been arrested on charges that he stole state sales tax that he collected from customers, the Florida Department of Revenue announced.

Gary Lee Johnson 57, of Fort Myers, was arrested by the Lee County Sheriff's Department on September 8, 2009 on a felony charge related to theft of taxes. If convicted, he faces up to 10 years in prison and up to \$10,000 in fines, as well as possible repayment of tax, interest, penalty, and investigative costs. Mr. Johnson owned and operated Hurricane Shutter Source, Inc., 57 Zip Drive, Unit 2, Fort Myers.

Based on their research, Revenue Department investigators determined that Mr. Johnson routinely collected tax from customers at his business. However, during various periods in 2006, he failed to send into the state all of the sales taxes that he had collected. Investigators found that he had illegally kept more than \$36,000.

September 4, 2009

Bay County Business Owner Arrested in More Than \$12,000 Tax Theft Case

The owner of a now closed Bay County business that specialized in promotional products has been arrested on charges that she stole more than \$12,000 in sales tax she collected from customers, but failed to send in to the state, the Florida Department of Revenue announced.

Mary M. Davila 33, of Southport, surrendered to the Bay County Sheriff's Department at 6:30 p.m. on September 3, 2009 on felony and misdemeanor charges related to refusing to file sales tax returns and theft of state funds. If convicted, she faces 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. Ms. Davila operated Davis Promotional Products, LLC at 3716 East 3rd Street, Panama City.

Ms. Davila routinely collected tax from customers at her business. However, during various periods beginning in June 2006 through March 2008, she failed to send in to the state all of the sales taxes that she had collected and she refused to file tax returns.

August 19, 2009

Owners of Escambia County Restaurant Arrested in Theft Case

The owners of an Escambia County restaurant have been arrested on charges that they stole more than \$88,000 in sales tax they collected from customers and failed to send in to the state, the Florida Department of Revenue announced.

Daniel J. Levitan, 45, and his wife Pamela H. Levitan, 46, both of Pensacola, were arrested by the Escambia County Sheriff's Department. Pamela H. Levitan, arrested on August 17, and

David J. Levitan, arrested on August 18, face felony charges relating to theft of state funds. If convicted, they face up to 15 years in prison and up to \$10,000 in fines, as well as possible repayment of stolen tax, interest, and investigative costs. The Levitans owned and operated Finnegan's Wake Irish Pub & Eatery, 2100 West Nine Mile Road, Pensacola.

According to Revenue Department investigators, the Levitans routinely collected tax from customers at their business. However, during various periods in 2008, the Levitans failed to send in to the state all of the sales taxes they had collected. Investigators found that the Levitans had illegally kept over \$88,000 in tax money.

August 4, 2009

Hillsborough County Auto Repair Shop Owner Arrested for Theft of State Funds

A Hillsborough County auto repair shop owner has been arrested on charges that he stole more than \$13,000 in sales taxes that he collected from customers, but failed to send in to the state, the Florida Department of Revenue announced.

John C. Camacho, 43, of Tampa, was arrested by the Hillsborough County Sheriff's Department on August 4, 2009 on felony charges relating to theft of sales tax and failure to file tax returns. If convicted, he faces 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. Mr. Camacho owns and operates International Auto Air Corp., 2015 West Busch Blvd., Tampa.

Investigators determined that Mr. Camacho routinely collected tax from customers at his business. However, during various periods between January 2005 and January 2009, he failed to send in to the state all of the sales taxes that he had collected. Investigators found that he had illegally kept \$13,000 in tax money.

According to Lisa Echeverri, Executive Director, Florida Department of Revenue, "Most Florida businesses do an excellent job of meeting the state's requirements for collecting and submitting sales tax, which pays for services Floridians need. Individuals who collect tax but do not send it in are stealing taxpayer dollars and gaining an unfair financial advantage over honest businesses. It's our job to ensure that Florida's tax laws are administered fairly."

Report Tax Violations

If you have information about a tax law violation, you may report it to the Florida Department of Revenue. The Department will investigate information you provide about an individual or business that may be evading or violating Florida tax laws.

When you contact the Department to report an alleged tax violation, please be prepared to provide information about the business, the type of violation, and date when the violation occurred.

To report a tax violation:

- **Call**
800-FL-AWARD (1-800-352-9273) in Florida, select option #3
850-487-9987 if you are out of state
- **Fax**
850-922-2906
Attention: Tax Violations
- **E-mail**
taxviolations@dor.state.fl.us
- **Write**
Florida Department of Revenue
Tax Violations — GTA
PO Box 5139
Tallahassee, FL 32399

Compensation for Tax Information - Reward Program

In certain circumstances, you may also be eligible for a monetary reward. Rewards are not automatic — they are only awarded when an investigation proves that there was a violation and all monies are recovered by the Department. We will send you an *Application for Compensation for Tax Information* (Form DR-55) after we receive your report of a tax violation.

You may report a tax violation anonymously; however, you will not be eligible for a reward. **Tax Laws** - Rewards for reporting tax violations are authorized by section 213.30, Florida Statutes, *Compensation for information relating to a violation of the tax laws* and Rule 12-18, Florida Administrative Code, *Compensation for Tax Information*. For more information, visit the [Florida Tax Law Library](#).



For Information and Forms

To speak with a Department of Revenue representative, call Taxpayer Services, Monday through Friday, excluding holidays, 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

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If you have questions or suggestions about this publication, contact Terry Branch at brancht@dor.state.fl.us or call 850-922-4715. If you have specific tax-related questions, call Taxpayer Services at 800-352-3671.

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