

Did You Overlook a Tax?

Tax law is complex and often hard to fully understand. Here are examples of instances where taxpayers “overlooked” paying a tax that should have been remitted.

Use Tax

1. Did you pay "use" tax on all Internet and catalog purchases?

Example #1: Joe bought a computer over the Internet for \$2,000. The company he bought it from is located in another state. The company did not charge Florida sales tax or any other state tax on its invoice to Joe. The computer was delivered to Joe in Florida for his own personal use. Joe may not realize it, but he owes “use” tax of 6% to the State of Florida. **$\$2,000 \times .06 = \120 total use tax due.**

Required action: Joe should file an *Out-of-State Purchase Return* and pay the use tax due. Joe can file the return [online](#) or use Form DR-15MO.

Example #2: Jane ordered some designer dresses from a catalog she picked up in Paris. The dresses were delivered to Florida for Jane’s personal use and no sales tax was paid to another state. Jane may not realize it, but she owes “use” tax of 6% to the State of Florida. The dresses cost \$3,500. **$\$3,500 \times .06 = \$210$ total use tax due.**

Required action: Jane should file an *Out-of-State Purchase Return* and pay the use tax due. Jane can file the return [online](#) or use Form DR-15MO.

2. Did you purchase a product tax-exempt for resale, but then later used it in your business or for your personal use?

Example: Stuart owns a feed and tack store and is a registered Florida dealer with the Department of Revenue. Stuart orders saddles to resell to customers. However, Stuart decided to use one of the saddles to ride his own horse. Since Stuart originally purchased the saddle tax-exempt for resale but later decided to use it for his own personal benefit, Stuart owes 6% Florida use tax plus any discretionary sales surtax (county tax) on the purchase price of the saddle.

Required action: Stuart should report the use tax and discretionary sales surtax on his next *Sales and Use Tax Return* (online or Form DR-15 or DR-15EZ).

3. Did you purchase materials that are "consumed" during your work process that are not actually part of the end product?

Example: Tom has a craft shop that sells handcrafted wooden toys and other wooden items. He is registered to collect sales and use tax on his retail sales. He buys router bits, saw blades, and sandpaper that are used to handcraft the wooden toys prior to selling them. He has been buying wood to make his crafts at the same time he buys his woodworking tools and supplies and issuing his current Annual Resale Certificate when purchasing all these items. **Tom should have been paying 6% use tax plus any discretionary sales surtax (county tax) on the woodworking tools and supplies that are used to produce the toys or other wooden items, but do not become a component part of those items.**

Required action: The easiest way for Tom to comply with sales and use tax requirements in the future is to simply pay the sales and use tax at the time he purchases any tools or sandpaper.

Tom should report the use tax plus any applicable discretionary sales surtax that he owes on his next regularly remitted *Sales and Use Tax Return* (online or Form DR-15 or DR-15EZ). He may continue to purchase wood without paying sales and use tax.

Find out more about [sales and use tax](#).

Tax Registration Requirements

4. Did you forget to register for tax payment?

The Department's online tax registration system will help you determine whether or not you should register for specific taxes. This site uses an interactive wizard that will first help you determine your registration requirements, then guide you through an online interview, and finally electronically submit your responses in the form of an application to the Department.

Use the [wizard](#) to determine your tax obligations.

Commercial and Transient Rentals – Sales and Use Tax

5. Do you lease commercial rental space? Are you a landlord?

Sales tax is due at the rate of 6% on all rent or other consideration paid for the right to use or occupy commercial real property, unless the rent is specifically exempt.

Some examples:

- Office or retail space
- Warehouses
- Convention and meeting rooms
- Mini-warehouses

Rentals, leases, and licenses to use or occupy real property by related "persons" are also subject to sales tax. Examples include: parent corporation to subsidiaries and an individual/shareholder to a corporation.

Some Florida counties levy a discretionary sales surtax on most transactions subject to sales and use tax. The discretionary sales surtax limitation on the first \$5,000 on a single sale of tangible personal property does not apply to the rental of commercial properties. The entire rental payment is subject to discretionary sales surtax.

Example: John Smith is a medical doctor who is incorporated for financial reasons. The corporation's name is John Smith, P.A. and John Smith (individual) is the president of the corporation. By law, John Smith (individual) and John Smith, P.A. (corporation) are two different legal entities. John Smith (individual) bought an office building and the mortgage is in his name. The building he owns is where John Smith, P.A. (corporation – medical practice) does business. John Smith, P.A. (corporation) pays John Smith (individual) \$6,000 a month to use the building and also pays the \$2,400 in ad valorem property taxes each year for John Smith (individual). The payment that John Smith, P.A. (corporation) makes to John Smith (individual) for use of the building and the payment for the ad valorem taxes are considered commercial rental payments. The building is located in Tallahassee (Leon County), which has a surtax of 1.5%. John Smith, P.A. (corporation) owes 6% Florida sales tax and 1.5% discretionary surtax for a total of 7.5% on the commercial rental payments it makes to John Smith (individual), even though John Smith (individual) is the President of John Smith, P.A. (corporation). Note that these statutory requirements still apply even when John Smith P.A. (corporation) makes direct payments of the

mortgage and ad valorem taxes on behalf of John Smith (individual). **Sales tax is due each month on the \$6,000 (\$6,000 X .075 = \$450 tax due each month) and on the \$2,400 (\$2,400 X .075=\$180) when it is paid.**

Required action: John Smith (individual) should register to collect and remit tax in Florida and subsequently file *Sales and Use Tax Returns* (online or Form DR-15 or DR-15EZ). He will be remitting the sales and use tax and discretionary sales surtax, if applicable, collected on the commercial rental payments from John Smith, P.A. (corporation).

Find out more about [commercial real property rentals](#).

6. Do you rent any kind of living quarters for less than 6 months at a time?

Sales tax is due at the rate of 6% on charges or room rates paid for the right to use or occupy living or sleeping accommodations that are rented for **6 months or less**. Florida law refers to these living or sleeping accommodations as "transient rentals." Sales and use tax, local option sales and use taxes (these include discretionary sales surtaxes and tourist development taxes) are charged on transient rentals. Currently, most counties have opted to levy additional tourist development taxes. Convention development taxes and tourist impact taxes also apply to transient rentals.

Accommodations rented for **more than 6 months** are exempt from sales and use tax, discretionary sales and use tax, and local option tourist development taxes.

Example: A landlord rents a condo or home for four months in the winter to a visiting out-of-state resident.

Required action: The landlord should be registered to collect and remit tax, add all applicable taxes to the visitor's bill, and remit all state and local taxes.

Note about local option tourist development tax: The Department collects the tax for some counties, in addition to the state's 6% tax. Thirty-nine counties locally administer their tourist development tax. If a condo or home is located within a county that levies a locally-administered tourist development tax, the landlord must remit and report this tax directly to the appropriate local county taxing agency. If the condo or home is located within a county that does not locally administer the tourist development tax, the landlord must remit and report this tax on his or her state sales and use tax return.

Find out more about [transient rentals](#).

Find out more about [tourist development tax](#).

Discretionary Sales Surtax (County Tax)

7. Did you underpay your county discretionary sales surtax?

Many Florida counties levy a discretionary sales surtax (a local option sales tax sometimes referred to as "county tax") on most transactions that are subject to sales and use tax. A dealer who sells and delivers taxable merchandise or a taxable service is required to collect the surtax at the rate imposed in the county where the merchandise or service is delivered. For motor vehicle and mobile home sales, use the surtax rate of the county where the motor vehicle or mobile home will be registered.

Only the first \$5,000 of a single sale of tangible personal property is subject to discretionary sales surtax if the property is sold as a single item, in bulk, as a working unit, or as part of a working unit. The \$5,000 limit does not apply to commercial property rentals, transient rentals, or services.

Example: The Handmade Furniture Company, located in Broward County, sells a \$7,000 dining room set to Mr. Jones, who lives in Miami-Dade County. Broward County does not levy a discretionary sales surtax. Miami-Dade County has a 1% discretionary sales surtax rate.

Required action: Handmade Furniture should charge Mr. Jones 6% sales and use tax on the full sales price of \$7,000 plus 1% discretionary sales surtax on \$5,000. **$\$7,000 \times 6\% = \$420$ and $\$5,000 \times 1\% = \50 . Total tax due: \$470.** The furniture company should report both amounts on its regular *Sales and Use Tax Return* (online or Form DR-15 or DR-15EZ). Taxpayers should complete the Discretionary Sales Surtax information on the back of the sales and use tax return.

Find out more about [discretionary sales surtax](#).

Corporate Income Tax

8. Did you forget to pay Florida corporate income tax?

Example: The Acme Widget Corporation began business in Florida in 2007, but overlooked filing a Florida corporate income tax return each year.

Required action: Acme should file a Florida Corporate Income Tax Return (online or Form F-1120 or F-1120A).

Find out more about [corporate income tax](#).

Fuel Taxes

9. Have you:

- Purchased and used (for a non-exempt purpose) dyed diesel fuel off-road and did not pay use tax on the sales price of the product.
- Manufactured biodiesel or ethanol for use in a motor vehicle and did not pay tax
- Blended gasoline, gasohol, diesel, or aviation fuel with a tax unpaid or partially taxed product for personal use in a vehicle, machine, vessel, or aircraft.
- Imported a taxable fuel into this state without paying tax.

If you answered yes, there is a very good chance you owe tax.

Required Action: Go to the [fuel page](#) for specific instructions on registration and filing requirements. Registration, filing requirements, and tax calculations vary by product type, transaction type, and location of the use or sale.

Do you want to learn more about your tax obligations?

Talk to a Taxpayer Services representative (800-352-3671) or visit one of our [service centers](#).

Thoroughly read all instructions that are sent with your tax forms. The Department strives to make tax forms and instructions easy to understand and up-to-date with tax law requirements. For example, the 2010 *Sales and Use Tax Return* (Form DR-15) and instructions include useful information about taxes as they apply to Internet sales, out-of-state purchases, and purchases made for resale.