

# Florida Department of Revenue



## Aircraft Dealers Standard Industry Guide



## PURPOSE

This guide provides an auditor with information on the subject industry. This information will assist an auditor in recognizing areas to test for compliance with Florida sales and use tax laws.

After reviewing this guide, an auditor will be better able to understand issues involving:

- Tax implications affecting the subject industry;
- Sales tax issues likely to surface relating to the subject industry; and
- Relevant statutes, rules, court cases and other technical documents

Helpful tax publications provided by the Department of Revenue available online:

### Industry Specific:

[Sales and Use Tax on Aircraft Dealers and Brokers](#)  
[Sales and Use Tax on Aircraft Owners and Purchasers](#)

### General:

[Sales and Use Tax Guide for Business Owners](#)  
[Audit Information](#)  
[Florida Sales and Use Tax](#)  
[Discretionary Sales Surtax](#)  
[Sales and Use Tax on Tangible Personal Property Rentals](#)

These reference materials and the technical documents cited herein have been provided as informational guidelines for performing tax audits and are intended to be used as internal management memoranda. They are not rules, orders, or policy statements of general applicability, and as such, do not represent the formal position of the Florida Department of Revenue. No representation is made regarding the Department's opinion of the precedential value of the court cases cited herein. They are provided for informational purposes only. Statutes, rules, court cases, or other technical documents subject to change are current as of the publication date of this document. Refer to the Tax Law Library for an updated listing of such documents. The Tax Law Library can be accessed through the Department of Revenue web site:

<https://dor.myflorida.com/dor/> or directly at <https://taxlaw.state.fl.us/>.

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### ***OVERVIEW OF METHODS OF OPERATION***

In addition to the sale of new and used aircraft, aircraft dealer activities may include parts sales, fuel sales, repairs, aircraft parking and storage, pilot training, rental of aircraft, and charter services. Most of these activities have sales and use tax implications.

The following is a list of various potential customers for the sales and services listed above:

- Commercial airlines, domestic and foreign
- Private individuals and businesses operating their own or rented aircraft
- Other aircraft dealers and brokers
- Aviation schools and students

### ***ACCOUNTING SYSTEMS***

The accounting systems of aircraft dealers are similar to those of automobile dealers, which can be expected considering their parallel activities. Like automobile dealers, aircraft dealers may have an inventory of new and/or used models for sale. Like automobile dealers, aircraft dealers may also engage in the repair and maintenance of units in their inventory and offer these services to others in the industry and to the general public. Aircraft dealers may also maintain an inventory of parts for sale, whether or not they offer repair services.

The sales journal, as well as invoices or bills of sale, will assist in identifying purchasers and selling prices and determining whether the appropriate tax was charged. Information contained within the bills of sales will assist the auditor in determining who purchased the aircraft and whether or not sales tax was charged. If sales tax was not charged, the basis for the exemption should be noted. The number of aircraft sale transactions is normally relatively small compared to other types of businesses, with each transaction usually being a large dollar amount.

Repair orders, which are used by the dealer to determine the profit or loss on each repair, will be more numerous and varied. To comply with FAA regulations, all repair orders will reference the aircraft's registration number and will be quite detailed. The taxpayer's chart of accounts can be used to assess the elements of direct material, labor, and overhead used in each repair. The aviation repair industry has adopted a standardized accounting system and chart of accounts. Separate repair orders are normally issued for work done under warranty.

### ***REGISTRATION***

Any person who is engaged in the business of selling, brokering, leasing, or renting any aircraft to others is required to register with the Department as a dealer and obtain a separate certificate of registration for each place of business, pursuant to [Section 212.18, F.S.](#) and [Rule 12A-1.060, F.A.C.](#)

In contrast, an aircraft broker is an agent selling aircraft for others. As a general rule, a broker does not maintain an inventory at a store location, but instead brings together a buyer and a seller. However, the activity of an aircraft broker is the same as an aircraft dealer in regards to the Florida sales and use tax and other State laws concerning the

registration of the aircraft they sell (see [Section 212.05\(1\) \(a\) 2, F.S.;](#) [Rule 12A -1.007\(9\), F.A.C.](#), and [AGO 71-286](#)).

If at the time of purchase –

- The purchaser was not registered as a dealer with the Department of Revenue, **or**
- Did not hold a resale/exemption certificate from the Department, **and**
- The dealer/vendor did not collect tax based on a good faith belief, that the transaction was not a taxable sale or purchase for resale, **or**
- The transaction was an exempt sale to, or a purchase by, an exempt entity

Then the vendor or purchaser can apply for relief from taxes, penalties and interest due because of inadvertent sales and use tax inadvertent registration errors, pursuant to Section 212.07(9), F.S. (see [Motorola, Inc. v. Green, \(130 So.2d 65, 1960 Fla. Sct. 2023\)](#) and [TIP 02A01-09](#)).

### ***SPECIAL EXEMPTIONS***

Effective July 1, 2006, qualified aircraft will be exempt from tax on repair and maintenance, the related charges for labor, and the sale or lease of such aircraft. Please reference changes in definition of “Qualified Aircraft”, “Exempt Transactions”, and “Requirement for Exemption” effective July 1, 2006 (see [Chapter 2006 – 144, L.O.F., Section 212.02, Section 212.08,](#) and [Section 212.0801, F.S.;](#) and [TIP 06A01-07](#)).

Effective July 1, 2010, a nonresident of Florida will be exempt from use tax on his/her aircraft if the aircraft enters and remains in the State for no more than a total of 20 days during the 6-month period after the date of purchase. Likewise, a purchaser that meets the qualifications for the nonresidential removal exemption in [s. 212.05\(1\)\(a\)2., F.S.](#), will be exempt from use tax if the aircraft enters and remains in the state for no more than a total of 20 days during the 6-month period after the date of purchase. Also, see [s.212.08\(7\)\(ggg\), F.S. and TIP 10A01-11R.](#)

Effective July 1, 2010, if a nonresident’s aircraft enters Florida exclusively for flight training, repairs, alterations, refitting, or modifications there is no use tax imposed and the days elapsed in Florida for such purposes do not count toward the nonresident’s 20 day allowance. The nonresident must support the exemption with written documentation provided by in-State vendors or suppliers that clearly identifies the aircraft and the purpose for which it was present in the State. Once completed, any time remaining of the 20 day period will continue to run, unless another exemption applies. Repairs to aircraft are taxable unless specifically exempt.

For purposes of these exemptions, a nonresident means a person who:

- Has not had his or her principal place of domicile in this State for a period of 6 or more consecutive months;
- Has not registered to vote in this State;
- Has not made a statement of domicile under [Section 222.17, F.S.;](#) and
- Has not filed for homestead tax exemption on property in this State.

A nonresident corporation means a corporation incorporated under laws of another State or country, which does not maintain its chief or principal office in this State.

Effective July 1, 2010, the sale or lease of an aircraft to the fractional aircraft ownership Program Manager is exempt from tax. The Program Manager must be registered with the Department of Revenue and must present to the dealer a certificate stating that the purchase or lease is for aircraft primarily used in a fractional aircraft ownership program. See below for suggested certificate language.

Effective July 1, 2010, the maximum tax imposed on the sale or use of a fractional ownership interest in a fractional aircraft ownership program is \$300. The tax cap applies only where the sale is made by the Program Manager or the fractional aircraft ownership interest is transferred upon the Program Manager's approval.

A "fractional aircraft ownership program" is defined as a program that meets the requirements of Federal Aviation Administration Regulation Title 14, part 91, subpart K, Code of Federal Regulations, except that the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group, as defined in section 1504(a) of the Internal Revenue Code. These aircraft must be used in the fractional aircraft ownership program.

The sale or use of any parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft, to the Program Manager, operating a fractional aircraft ownership program with at least 25 aircraft, is exempt from tax. The Program Manager must be registered with the Department and present to the dealer a certificate stating that the repair or maintenance is for aircraft primarily used in a fractional aircraft ownership program.

Note: See [TIP 10A01-11](#), for additional information.

### ***RESALE***

Registered aircraft dealers/brokers can purchase aircraft and aircraft parts tax-exempt when purchased exclusively for resale, pursuant to [Section 212.07, F.S.](#), and [Rule 12A -1.039, F.A.C.](#), *Gulf Capital Corporation vs. Florida Dept. of Revenue, 01-6-FOF ( 01-0174, 09/25/01)*; The purchasing dealer is required to issue the selling dealer a copy of the purchasing dealer's Annual Resale Certificate at the time of purchase in lieu of paying tax (see *Anderson v. DOR (380 So. 2d 1083, 1980 Fla. 3 DCA 464)*). The dealer is required to retain these certificates or affidavits to document any tax-free sales made, pursuant to [Section 95.091, F.S.](#)

All aircraft and aircraft parts sold in this State are subject to Florida sales and use tax at the moment of sale or delivery, unless otherwise exempted. Florida aircraft dealers are required to collect sales and use tax from the purchaser at the time of sale. In addition to the sales tax, if the aircraft or part is delivered in a county that imposes a discretionary sales surtax, the dealer must collect this tax as well. Discretionary sales surtax applies only to the first \$5,000 of the purchase price.

If a dealer uses an aircraft held in inventory for resale for its own purposes use tax must be calculated and remitted at the rate of 6% of 1% of the value of the aircraft for each calendar month in which the aircraft is used (see [Section 212.06\(13\), F.S.](#) and [Rule 12A-1.007\(10\)\(g\), F.A.C.](#)). The payment of the use tax must start in the first month that revenue is earned from the use of the aircraft, including any charter, flight training, and demonstration where a charge is made. The use tax is computed on the book value of the aircraft, including any added accessories and the capitalized cost of any reconditioning. (The dealer may pay sales tax on the total cost of the aircraft in lieu of the monthly use tax.)

### ***SALES***

All sales, including occasional or isolated, of aircraft, parts, and accessories, as well as, any repairs made to these are subject to Florida sales tax at the moment of sale or delivery unless the dealer obtains from the customer a properly executed resale/exemption certificate or affidavit as required. (see [Section 212.05\(1\)\(a\)b., F.S.](#), [Section 212.07, F.S.](#), [Rule 12A-1.039, F.A.C.](#), [TAA 88A-1237, Gulf Capital Corporation vs. Florida Dept. of Revenue, \(01-6-FOF; 01-0174, 09/25/01\)](#), and [Gary Porter, Inc. v. Dept. of Revenue, \(93-2436; 94-7 FOF; 93-2437, 11/21/94\)](#)). The dealer is required to retain these certificates or affidavits to document any tax-free sales made, pursuant to [Section 95.091, F.S.](#)

The sale of any new or used aircraft by a registered dealer is subject to tax on the total sales price, including any separately itemized charges or fees for:

- The cost of the aircraft, or any other accessory;
- Preparation, settlement, or closing fees, such as “dealer prep fees”;
- Advertising;
- Freight, handling, or delivery, except transportation charges exempt under [Rule 12A-1.045, F.A.C.](#), (Also see [Department of Revenue v. B & L Concepts, 612 So.2d 720, \(Fla. 5DCA 1993\)](#)).
- Commission;
- Repossession;
- Future services to be provided at no charge to the purchaser (this does not include case-by-case adjustments or goodwill adjustments); See [TIP 03A01-20](#) and [TAA 03A-029](#); and
- Any other expenses or costs factored into the price in providing the vessel, motor, trailer, or accessories to the purchaser.

### ***Trade-In Allowance***

Sales tax should be computed at the rate of 6% of the total sales price of an aircraft minus any trade-in allowance., pursuant to [Section 212.09, F.S.](#), and [Rule 12A-1.007\(9\)\(c\), F.A.C.](#)

The amount of the trade-in allowance or credit is deducted from the sales price of the new or used aircraft before computing the amount of tax due (see [TAA 98A-1040](#)). When the amount of the trade-in allowance against the sales price of an aircraft is equal to or exceeds

the sales price of the aircraft being purchased, such as in an “even trade” or “trade down,” no tax is due (see [TAA 88\(A\)-293](#)).

The owner of the aircraft being traded-in does not have to be the purchaser of the aircraft receiving the benefit of the reduction in sales price. The owner must approve of the trade-in.

### ***Rebates/Discounts***

Rebates provided by aircraft manufacturers to the purchaser of an aircraft through the selling dealer are not discounts allowed between the seller and the purchaser, even when the purchaser assigns the rebate to the selling dealer. Tax is computed on the sales price of the aircraft without any deduction from the amount of the manufacturer’s rebate. However, rebates or discounts given directly by the selling dealer to the purchaser are deducted from the sale price of the aircraft before computing the amount of tax due when the dealer does not receive reimbursement from any other third party for the amount of the rebate or discount (see [Rule 12A-1.018\(1\), \(2\), \(4\), F.A.C.](#), [TAA 90A-035](#), and [TIP 03A01-20](#)).

### ***Sales to Non-Residents and Non-Resident Dealers***

[Section 212.05\(1\)\(a\)2., F.S.](#) provides an exemption is provided for an aircraft sold by or through a registered dealer to a purchaser who, at the time of taking delivery of the aircraft, is a nonresident of this State. This exemption applies to the sale of an aircraft and accessories sold as part of the aircraft by a registered dealer to a nonresident purchaser.

A registered aircraft dealer may sell an aircraft to a resident of another State without collecting the tax as long as the provisions set out in [Section 212.05\(1\) \(a\) 2. F.S.](#) and [Rule 12A-1.007, F.A.C](#) are met. Under these provisions a non-resident of Florida may purchase an aircraft without paying the tax, if the following provisions exist:

- The dealer obtains for his records a sworn affidavit from the buyer;
- The buyer removes the aircraft from Florida within 10 days from the date of purchase or;
- 20 days after completion of any needed repairs or alterations;
- The buyer provides the department with a proof of removal (receipts for fuel, dockage, tie-down from outside Florida) within 10 days; and
- The buyer provides the department with written proof that the aircraft was licensed, registered or documented outside Florida within 30 days of removal.
- The buyer must not return the aircraft to Florida within six months from the date of departure from Florida, unless pursuant to another exemption.

If the buyer fails to provide the Department with the documents required, the Department’s special programs process will take actions to collect the tax, penalty, and interest. The selling dealer, within 5 days of the sale date, shall provide the Department with a copy of the sales invoice, closing statement, bills of sale, *and the original affidavit*. The Department maintains records of removal and registration received from the dealers (see [Section 212.05\(1\) \(a\) 2.f., F.S.](#)).

If the buyer issues the dealer a fraudulent removal affidavit for the purpose of evading the payment of tax, the buyer is liable for the tax, plus a mandatory penalty of 200% of the tax due (see [TAA 98A-1056](#), [TAA 98A-1011](#), [TIP 95A01-28](#), [TIP 92A01-11](#), *Yes Dear, Inc. v. DOR* (523 So.2d 1235, 13 FLW 974, 1988 Fla.1DCA 1395, *United Engines, Inc. v. DOR*, (508 So.2d 459, 12 FLW 1369, 1987 Fla.1DCA 1917, and *DOR v. G.R. Swan Enterprises, Inc.*, (506 So.2d 455, 12 FLW 1053, 1987 Fla.1DCA 1354).

If the buyer fails to comply with any of the above provisions, the buyer is liable for the tax plus a penalty equal to the tax (see [Section 212.05\(1\)\(a\)2.f.\(VII\)](#), F.S.).

[Section 212.06\(5\) \(b\)](#), F.S. and [Rule 12A -1.0015](#), F.A.C. provides for a nonresident dealer (Out-of-State or out-of-country) who does not hold a Florida sales tax registration may purchase property for resale without paying the tax. The nonresident dealer furnishes the seller a statement declaring that the tangible personal property will be transported outside of Florida by the nonresident dealer for resale and no other purpose. The statement must include the nonresident dealer's name, address, applicable passport, or visa number, and evidence of authority to do business in his home State or country such as the business name, address and occupational license number. The statement must be signed by the nonresident dealer and must contain the following: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief"(also see [TAA 00A-028](#), and [TAA 91A-1044](#)).

### ***Sales by Manufacturers of Flyable Aircraft for Domicile Outside of Florida***

[Section 212.08\(11\)](#), F.S., provides for a partial exemption for flyable aircraft sold by manufacturers who design such aircraft, including the sale of necessary equipment and modifications placed on flyable aircraft prior to delivery, to any purchaser who at the time of purchase is:

- A resident of another State, territory of the United States, or District of Columbia who will not use the aircraft in Florida;
- A resident of another State, territory of the United States, or District of Columbia who uses the aircraft in interstate or foreign commerce; or
- A resident of a foreign country

When the manufacturer sells a flyable aircraft to a qualified purchaser, tax is imposed on the sales price of the aircraft in an amount equal to the tax imposed on the sale of flyable aircraft in the other State, territory of the United States, or District of Columbia in which the aircraft will be domiciled. However, the tax collected must not be greater than 6 percent of the sales price of the aircraft. The tax collected by the manufacturer is Florida tax and is to be remitted to the Department (see [Rule 12A-1.007\(10\) \(c\)](#), F.A.C.).

### ***Sales for Export***

When a registered dealer sells an aircraft that will be exported under its own power to a destination outside of the continental limits of the United States, the dealer is not required to collect tax when the dealer maintains a copy of the following documents:

- The United States Customs Declaration indicating the departure of the aircraft from continental United States; and
- The cancellation of the United States registry of the aircraft

***Sales or Leases to Air Common Carriers***

The sale or lease of an aircraft of more than 15,000 pounds maximum certified take-off weight for use by a common carrier is exempt. For purposes of this exemption “common carrier” means an airline operating under Federal Aviation Administration regulations contained in 14 C.F.R. 121 or 14 C.F.R. 129 (see [Section 212.08\(7\) \(ss\), F.S.](#)).

Air carriers engaged in interstate or foreign commerce which utilize mileage apportionment for Florida corporate income tax purposes may elect to prorate and self-accrue tax liability based on their percentage of Florida revenue miles to total revenue miles under the provisions of [Section 212.0598, F.S.](#) Currently, the carrier makes the election by requesting direct pay authority. At the time of the purchase, the carrier must issue a copy of the letter of authority to the selling dealer.

***FAA REGISTRATION***

[Section 212.06\(10\), F.S.](#), provides that no title certificate may be issued on any aircraft or if no title certificate is required by law, no license or registration may be issued for any aircraft by any State agency unless there is filed with the application of title certificate or registration a receipt evidencing payment of the applicable tax.

Unlike automobiles, for which the transfer of ownership is handled by the various States, aircraft are required to be registered by the manufacturer with the Federal Aviation Administration (FAA), and are assigned a unique number that is painted on the wing and vertical stabilizer (rudder) of the aircraft. Changes in ownership are reported to the FAA, and the registration number is transferred to the new owner. In addition, maintenance work performed by aircraft dealers is tightly regulated by the FAA that must certify the shop and its mechanics. Consequently, all sales and repair invoices should reference the registration number of the aircraft being sold, repaired, or modified.

***TRANSFER OF TITLE***

Each and every private or casual sale, purchase, use, or transfer of title to an aircraft is subject to Florida sales or use tax when the aircraft is required to be registered with the FAA indicating Florida ownership (see [Section 212.06\(10\), F.S.](#)).

Tax is based on the sales price of the aircraft whether valued in money or otherwise, any cash or equivalent paid, any outstanding lien assumed by the purchaser, and any equity ownership, or beneficial interest transferred in exchange for an aircraft.

***AIRCRAFT PURCHASED OUTSIDE OF FLORIDA***

Any aircraft imported into Florida for use or storage for use in Florida within six months of the date of purchase is subject to Florida sales or use tax on the purchase price of the aircraft, including any aircraft imported from a foreign country (see [DOR 91-04 Wotan America, Inc.](#)).

***AIRCRAFT HELD IN INVENTORY FOR OWN USE/  
LEASE OR RENTAL OF AIRCRAFT/  
CHARTER/FLIGHT-INSTRUCTIONS***

The lease or rental of aircraft is subject to tax. Aircraft may be purchased tax-exempt when purchased exclusively for lease or rental by a dealer registered with the Department at the time of purchase.

Charges for air taxi or charter to transport passengers to a destination are exempt when the person purchasing the air taxi or charter does not pilot or take direction over the aircraft; however, the purchase of the aircraft for this purpose is subject to tax. Charges for flight instruction, including charges for supervised solo flights, are not subject to tax. The purchase of an aircraft for the purpose of providing flight instruction is subject to tax at the time of purchase. The charge for the rental or use of an aircraft for purposes of solo flights is subject to tax, including charges to flight students who have completed a flight course and are logging hours for rating or to obtain a license.

Registered aircraft dealers who purchase aircraft exclusively for resale tax-exempt at the time of purchase are required to pay a use tax computed on 1 percent of the value of the aircraft each calendar month the aircraft is used by the dealer. The payment of the use tax commences the first month the aircraft is first used for any purpose for which income is received by the dealer, including air charters, flight training, and demonstration, when a charge is received by the dealer. The use tax is due each month that the dealer generates income by using the aircraft. In lieu of monthly use tax, a registered dealer can pay sales tax on the purchase price of the aircraft at the time of purchase. The value of the aircraft for purposes of computing use tax is generally the value of the aircraft shown on the books of the dealer in accordance with generally accepted accounting principles and includes the acquisition cost and the cost of reconditioning which enhances the value of the aircraft. The lease or rental of any aircraft subject to use tax computed on 1 percent of the value by the dealer is subject to tax. The dealer is required to collect sales tax on the lease or rental charge and is prohibited from offsetting the amount of tax collected by any use tax computed on 1 percent of the value of any aircraft due to the Department (see [Section 212.06\(13\), F.S.](#)).

***AIRCRAFT REPAIRS AND MODIFICATIONS***

Charges for the repair, maintenance, or modification of aircraft, including charges for labor, parts, and materials are subject to tax, unless specifically exempt.

The repair or maintenance, including labor, services parts or materials used in the repair or maintenance, of an aircraft that is used exclusively for resale, lease or rental to other persons is exempt.

Maintenance or repair of aircraft and charges for labor for the repair or maintenance of the following aircraft are exempt:

- Fixed wing aircraft with a maximum certified takeoff weight of more than 15,000 pounds; and

- Rotary wing aircraft (e.g. helicopters) with a maximum certified takeoff weight of more than 10,000 pounds

Equipment used in aircraft repair or maintenance and charges for replacement engines, parts, or equipment used and installed on the following aircraft repaired or maintained in Florida are exempt:

- Fixed wing aircraft with a maximum certified take-off weight of more than 15,000 pounds; or
- Rotary wing aircraft (e.g. helicopters) with a maximum certified takeoff weight of more than 10,300 pounds

All charges for aircraft modification services, including charges for parts, equipment, labor, and installation performed under authority of a Supplemental Type Certificate issued by the Federal Aviation Administration under 14 C.F.R. ss. 21.111-21.119 are exempt. The aircraft modifications subject to this exemption are those in which a product is altered by introducing a major change in design type not great enough to require a new application for a new type of certificate, as required under 14 C.F.R. s. 21.19. These major changes require the issuance of Form 337, Major Repair & Alteration (Airframe, Power Plant, Propeller, or Appliance) and inspection of the changes to the aircraft by the Administrator of the Federal Aviation Administration. The exemption provided for parts, equipment, labor and installation for the repair, maintenance, alteration, or modification of an aircraft does not apply to repairs, maintenance, alterations, or modification that do not require the issuance of a Supplemental Type Certificate and Form 337 by the Federal Aviation Administration. Examples of taxable items include parts, equipment and installation labor in connection with an air-worthiness directive, major repair, alteration (not designated as a major change), rebuilding, maintenance, or preventative maintenance.

Parts and equipment installed on an aircraft of foreign registry are exempt from tax. To be entitled to the exemption, the selling dealer is required to obtain from the owner, owner's agent, or operator of the foreign aircraft a written declaration certifying that:

- The foreign aircraft entered the United States for the purpose of purchasing parts or equipment to be installed on the aircraft; and
- The aircraft will depart from the continental United States under its own power upon completion of the installation of the parts and equipment.

### ***AIRCRAFT FUEL***

The tax provisions for aircraft fuel are located in [Chapter 206, F.S.](#) (see [Part III](#)).

### ***ALTERNATIVE METHOD/CALCULATING ESTIMATED TAX***

Aircraft dealers have an alternative method available for calculating and paying their estimated sales tax. To qualify for the alternative estimated sales tax method, a dealer must have made at least one sale of an aircraft with a selling price of \$200,000 or more in the previous State fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>). Dealers must apply before October 1

each year and be approved by the Department to use this alternative method (see [Section 212.11\(4\) \(c\), F.S.](#), and [TIP 99A01-29](#)).

***GLOSSARY OF TERMS***

- Aerodynamics:** The study of air in motion and the forces that act on solid forces moving through the air.
- Airframe:** Includes the fuselage (body of the airplane), wings, tail assembly, landing gear, and engine mount.
- Engine Instruments:** The tachometer, oil pressure and oil temperature gauges, and fuel gauge.
- The Federal Aviation Administration (FAA):** The federal agency that mandates the regulations pertaining to the safe operation of aircraft and minimum pilot qualifications.
- Flight Controls:** The control stick, a pair of rudder pedals, and the throttle.
- Flight Instruments:** Includes, but is not limited to, airspeed indicator, altimeter, turn-and-bank indicator, compass, clock, and radio.
- Foreign Registry:** Aircraft registered and domiciled outside the State of Florida.
- Landing Gear:** The undercarriage consisting of wheels, skids, skis, or floats on which the airplane rests while taking off or landing.
- Maximum Certified Take-off Weight:** The maximum payload that the aircraft is safely capable of carrying.
- Power Plant:** The engine, propeller (if any), accessories such as carburetors, fuel pumps, and fuel and oil tanks and lines.
- Supplemental Type Certificate:** Certificate issued by the FAA mandating a repair or modification necessary to meet a minimum safety standard.
- Tie-down Charges:** Charges for parking and securing aircraft to the ground.

**TAX STATUTES AND ADMINISTRATIVE RULES**

<b>Topic</b>	<b>Statute (F.S.)</b>	<b>Rule (F.A.C.)</b>
Sales	212.05(1)(a)(b)	12A-1.007(1)(a)
	212.06(5)(8)	12A-1.007(2)
	212.07(1)	12A-1.007(3)
	212.08(11)	12A-1.007(6)
	95.091	12A-1.007(7)
		12A-1.039
		12A-1.045
Exempt Sales	212.08(7)	12A-1.064(1)(2)
		12A-1.006(1)
Special Exemptions	212.02	
	212.08	
	212.0801	
	222.17	
Sales to Non-residents and Non-resident Dealers	212.05(1)(a)2	12A-1.007
	212.06(5)(b)	12A-1.0015
Resale	212.07	12A-1.007(10)(g)
	95.091	12A-1.039
	212.06(13)	
Sale of Parts	212.06	12A-1.006
Repair and Modification	212.08(7)(ff)	12A-1.006
	212.06(5)	12A-1.007(10)
Aircraft Rental	212.05(1)	12A-1.007(14)
		12A-1.071(21)
Use in Flight Course		12A-1.071(23)
Parking and Storage	212.03(6)	12A-1.070(3)
		12A-1.073(1)
Use of Aircraft		12A-1.007(10)
Alternative Estimate Tax Method	212.11	12A-1.056
Registration	212.18	12A-1.007(9)
	212.05(1)(a)2	12A-1.060
	212.07(9)	
Trade-in Allowance	212.09	12A-1007(9)( c)
Rebates/ Discounts		12A-1.018(1).(2).(4)
Sales by Manufacturers	212.08(11)	12A-1.007(10)( c)
Sales for Leases to Air Common Carriers	212.0598	
	212.08(7)(ss)	
FAA Registration	212.06(10)	
Transfer of Title	212.06(10)	
Held in Inventory for own use	212.06(13)	
Alternative Method for Calculating Estimated Tax	212.11(4)(c )	

**LAWS OF FLORIDA**

Special Exemption  
Aircraft Fuel

Chapter 2006-144  
Chapter 206, F.S. (See Part III)

**ATTORNEY GENERAL OPINION**

Registration 71-286

**COURT CASES IMPACTING THE INDUSTRY****L.B. Smith Aircraft Corp. v. Green**

*94 So.2d 832 (Fla.1957)*

**Issue:** In this case, one of the earliest challenges to the rules regarding the taxability of parts installed in aircraft, L.B Smith Aircraft Corp. challenged an assessment of sales tax on parts it installed in old cargo aircraft. The aircraft were converted by the taxpayer to plush executive passenger jets for resale but were not certified for regular flights. One of the reasons forwarded by the taxpayer, in arguing their case for exemption, was that the aircraft would be used by their customers to move their executives and employees across state lines. In this case, the court ruled that since the aircraft were not certified as common carriers, the taxpayer could not avail itself of the exemption provisions covering sales to common carriers engaged in interstate and foreign commerce.

**Motorola, Inc. v. Green**

*130 So.2d 65 (Fla. 1960)*

Issue: Resale certificates

The court found that the acceptance by a manufacturer of resale certificate property identified with a registration number, relieved such manufacturer from the burden of collecting sales and use tax on advertising materials sold to distributors in the State of Florida.

**Gulf Capital Corporation vs. Department of Revenue**

*01-6-FOF (01-0174, 9/25/01)* Department of Administrative Hearings

The purchasing dealer is required to issue the selling dealer a copy of the purchasing dealer's Annual Resale Certificate at the time of purchase in lieu of paying tax.

**Anderson v. DOR**

*380 So.2d 1083, 1980 Fla. 3 DCA 464*

The dealer is required to retain these certificates or affidavits to document tax-free sales made, pursuant to s. 95.091, F.S.

**Gary Porter, Inc. v. Dept. of Revenue**

*93-2436, 94-7 FOF; 93-2437, 11/21/94* Department of Administrative Hearings

The dealer is required to retain these certificates or affidavits to document tax-free sales made, pursuant to s. 95.091, F.S.

**Dept. of Revenue v. B & L Concepts***612 So.2d 720 (Fla. 5<sup>th</sup> DCA 1993)*

Presents guidance in determining whether certain types of services should be taxable as part of the sale of tangible personal property.

**Yes Dear, Inc. v. DOR***523 So.2d 1235, 13 FLW 974, 1988 Fla. 1 DCA 1395*

If the buyer issues the dealer a fraudulent removal affidavit for the purpose of evading the payment of tax, the buyer is liable for the tax, plus a mandatory penalty of 200% of the tax due.

**Wanda Marine Corp. v. Dept. of Revenue***305 So.2d 65 (Fla. 1<sup>st</sup> DCA1974)*

If a boat, after removal from this state, is documented in another state, territory of the United States, or the District of Columbia and the boat remains outside the state for 6 months or longer in another state, territory of the United States, or the District of Columbia as described in s. 212.05(1)(a)2., F.S., under conditions which would give rise to the taxing jurisdiction of the state, territory or district, then it is presumed that the boat was not purchased for use in this state under s. 212.06(8), F.S. This presumption is an exemption and the facts are strictly construed against the existence of the exemption.

**United Engines, Inc. v. DOR***508 So.2d 459, 12 FLW 1369, 1987 Fla. 1DCA 1917*

If the boat is not used in another state, as described in Wanda Marine, for 6 months, even if it remains out of Florida for 6 months, it is subject to use tax upon its return to Florida.

**Dept. of Revenue v. G.R. Swan Enterprises***506 So.2d 455 (Fla. 1<sup>st</sup> DCA 1987)*

If the boat is not used in another state, as described in Wanda Marine, for 6 months, even if it remains out of Florida for 6 months, it is subject to use tax upon its return to Florida.

**Wotan America, Inc.***Dept. of Revenue, Declaratory Statement, 91-04*

Any aircraft imported into Florida for use or storage for use in Florida within six months of the date of purchase is subject to Florida sales or use tax on the purchase price of the aircraft, including any aircraft imported from a foreign country.

**American Aircraft Sales international, Inc. v. DOR***DOAH Case No. 97-0698*

In this case the Administrative Law Judge found that "...the petitioner's self-serving attempt to put the Genie back in the bottle by amending its federal returns is not relevant to deciding the issue presented here."

***TAX INFORMATION PUBLICATIONS***

Registration	02A01-09
Special Exemptions	06A01-07
	10A01-11
Rebates/Discounts	03A01-20
	95A01-28
	92A01-11
Alternative Method for Calculating Estimated Tax	99A01-29
Sales	03A01-20
Sales to Non-resident and Non-resident dealers	95A01-28
	92A01-11

***TECHNICAL ASSISTANCE ADVISMENTS***

Sales	88A-1237
	03A-029
Trade-in Allowance	98A-1040
	88A-1293
Rebates/Discounts	90A-035
Sales to Non-resident and Non-resident dealers	98A-1056
	98A-1011
	00A-028
	91A-1044