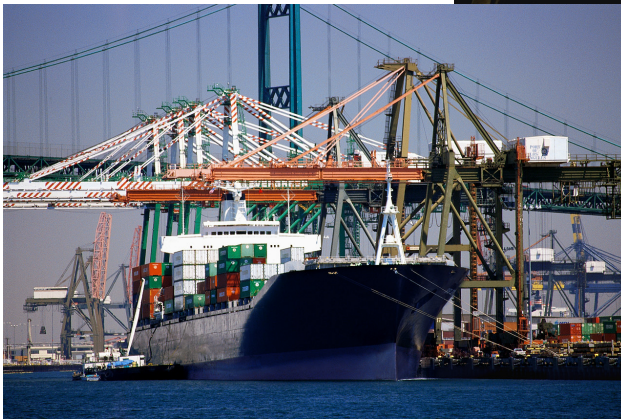
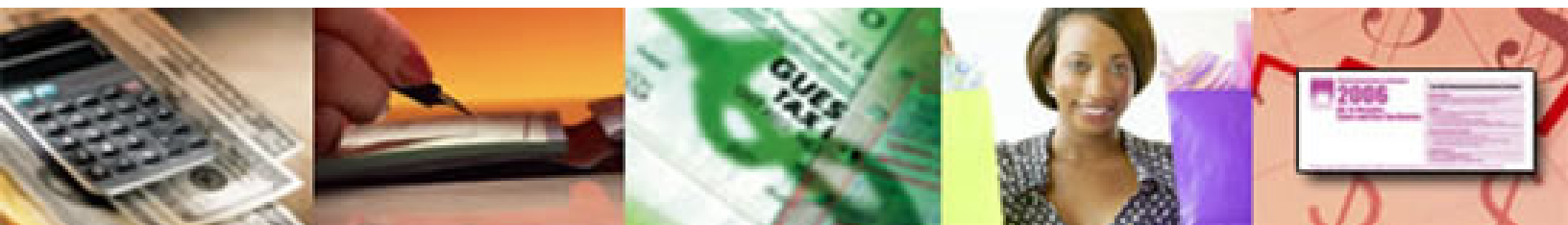


Florida Department of Revenue



Transportation 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 (See hyperlinks):

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:

<http://www.myflorida.com/dor/>

TABLE OF CONTENTS

***OVERVIEW OF METHODS OF OPERATIONS* 4**

 GENERAL OVERVIEW 4

 TYPES OF TRANSPORTATION COMPANIES 5

Motor Vehicles 5

Vessels 6

Railroads 7

Aircraft 7

***ACCOUNTING SYSTEMS* 8**

***REGISTRATION* 9**

***EXEMPTIONS* 10**

 OBTAINING A PARTIAL EXEMPTION AT THE TIME OF PURCHASE 10

Motor Carrier, Railroad Carrier or Air Carrier 10

Vessels 11

 REFUNDS TO CLAIM THE PARTIAL EXEMPTION 11

 MILEAGE APPORTIONMENT 11

 AIR CARRIER 13

***SALES* 16**

 TRANSPORTATION CHARGES 16

***PURCHASES* 16**

 IN-STATE V. OUT-OF-STATE 16

***LEASE OR RENTAL OF RAILROAD CARS* 16**

***CAR SERVICE* 17**

***MISCELLANEOUS ISSUES* 17**

 FUEL USED IN INTERSTATE OR FOREIGN COMMERCE 17

 DAMAGE CLAIMS & DEMURRAGE CHARGES 17

 MEALS SERVED 18

***GLOSSARY OF TERMS* 19**

OVERVIEW OF METHODS OF OPERATIONS

General Overview

Transportation companies are in the business of transporting people and property. Passenger carriers operate between terminals or depots that are either privately or publicly owned. Passengers obtain passage by purchasing a ticket either at the terminal or from a ticket agent. Passenger carriers maintain reservation systems that are usually computerized. The carrier then transports the passengers from one terminal location to another. At this point, a passenger may change conveyance, mode of travel, or carrier in order to reach his or her final destination.

Equipment to assist the passengers on and off the vehicle and to handle baggage is made available at each terminal. Maintenance facilities are required to insure proper operation of the equipment used to carry the passengers, assist passengers on and off the vehicle, and handle baggage.

Refreshments are either prepared or contracted at each terminal for serving at the terminal, or during the trip.

Cargo carriers use a bill of lading rather than a passenger ticket. This document identifies the consignor (shipper) and the consignee (receiver), the lading (items being transported), and the carrier or carriers that will transport the lading. Transportation companies that require movements of their own goods are in a unique position in that they can be both the carrier and the consignee of goods in transit.

A commonly used method for rapid delivery of cargo is called interchange. Interchange is the transfer of vehicles between two carriers to complete transportation of goods for a shipper.

Interchange applies to both empty and fully loaded vehicles destined for the same location. The carriers involved in the interchange can be tractor, rail, ship, or barge.

The concept of interchange results in carriers owning vehicles that are located all over the country, or even in foreign countries. Elaborate reporting and accounting systems have been instituted to control and account for these vehicles. To compensate the owner of a vehicle while the vehicle is earning revenue for another carrier, the carrier using the vehicle pays the owner an established daily and mileage fee.

The concept of interchange has spawned an entirely new industry. Corporations have been formed to rent trailers and containers to cargo carriers. The carriers and the equipment companies enter into formal agreements for the use of the rental equipment. The rental term includes long-term leases and, daily, hourly, or even by the minute rentals. The long-term lease vehicles are treated as though the carrier owns them, and usually carry the trade name of the carrier.

The equipment company owned/leased vehicles that are interchanged are considered free running vehicles. The carrier simply agrees to pay rent to the owner of the vehicle, as long as the carrier has possession of the vehicle. When the vehicle is interchanged, the receiving carrier begins to pay rent directly to the owner of the vehicle. Free running vehicles reduce the problems encountered in returning a vehicle, because the vehicle is at home wherever it happens to be located.

The concept of interchange has produced new demands on maintenance procedures for the carriers. In addition to maintaining its own fleet of vehicles, a carrier, by agreement and regulation, is responsible for some maintenance on vehicles belonging to others without consulting the owner (a dollar limit is established for these repairs). For major repairs, those over the established dollar limit, the carrier must notify the owner, to enable the owner to make a decision, or give instructions about the repair.

Most carriers have their own maintenance shops, but major repairs are sometimes contracted to others. The equipment companies maintain regional repair shops for their own equipment, and will enter into contracts for the maintenance of other carriers' vehicles.

Types of Transportation Companies

Motor Vehicles

Motor carriers may transport items or persons between fixed terminals or hubs, interstate and intrastate. Vehicles used in providing this service are referred to as line-haul vehicles. Other carriers may expand upon or complement such service by providing transportation to or from the terminals or hubs and the specific locations of the shippers and receivers. Vehicles that are used to provide this service are referred to as long-haul vehicles.

Motor carriers may operate in several ways. A trucker may transport full loads from a shipper's location to another destination. Some of these carriers are engaged in providing this service for a variety of clients, while others operate in a more specialized manner, transporting a special product for a single producer. In this situation, a highway carrier may be a member of a pool.

A pool is a collection of vehicles from various motor carriers that are assigned to transport the output of a given factory. The carrier will generally participate in the sharing of revenues and expenses of the pool vehicles furnished by these carriers. Purchased, leased, or rented vehicles may be furnished to the pool.

Other carriers may transport mixed loads for a number of shippers. In this case, the motor carrier receives the goods at one of its terminals, and ships to another. The trucking company will operate these terminals at strategic locations throughout its region of operation. Storage space, material handling equipment, and maintenance shops will be available at these facilities.

Any warehouse or cartage equipment, and all other vehicles, such as wreckers/tow trucks, or company cars are not entitled to the partial exemption. Charges made for interchanged vehicles are exempt as a service. Charges made for free running vehicles are taxable as a rental of equipment. Interchanged vehicles may be free running.

A company may hire independent contract drivers or enter into contracts with contract carriers to provide the company's offered services. In such cases, the independent contractors may provide their own vehicles.

Bus lines that operate interstate are registered with the USDOT, and their buses are commonly rotated between interstate and intrastate routes. This rotation makes their vehicles interstate vehicles. They charge a per-passenger fee and may take a small amount of cargo.

Taxicabs and local bus services offer local land transportation to commuters. They are licensed by the city or county in which they operate and earn revenue by charging a per passenger and/or per-mile fee. Their vehicles bear Florida license plates and their terminal facilities are located in the city in which they operate.

Trucks are often equipped with radios and satellite location equipment as well as safety equipment, load-locks, hand carts, dollies, and even such amenities as TV sets and bedding.

Vessels

Vessels and ships that carry persons and cargo are common in Florida. Such vessels may be manufactured, purchased, and entered into service inside and outside the state. They may be manufactured here but exported to a foreign state or registered in a foreign country. Docking and terminal facilities may consist of a pier and a rope, as in the case of small pleasure or fishing boats; a crane and railhead, as in the case of those who use barges to transport minerals; or a public terminal with concessions and storage lockers, as in the case of a cruise line.

Tugboats, barges, and other vessels operating wholly within the state's rivers, canals, and intercoastal waterways, as well as local water transportation, towing, and tugboat services operating within the coastal waters, are considered to be operating intrastate. A mining or manufacturing company that uses barges and the tugs that pull them typically own the vessels or lease them for a term of months or for a single trip. Tugs that help oceangoing vessels dock are commonly owned and operated by port authorities, but they may also be owned or leased by private shipping companies. Such leases may or may not require an operator. Chartered boats of all sizes, both with and without an operator, are common, as are leases of docking and storage facilities.

International maritime shipping involves larger oceangoing vessels. These vessels are often registered in another country and are subject to international maritime law as well as various multinational and bilateral treaties with the United States. A shipping company often owns its own pier and warehousing facilities as well as cranes, forklifts

and other loading equipment, launches, and tugs. These companies earn revenue through the sale of passenger tickets or from transporting cargo for others. In the latter case, the sales price is measured in pounds or metric tons. Charges for storage, warehousing, and related services are also common. Although in-state dry-docks and repair facilities exist, large oceangoing vessels often carry their own parts and machine shops onboard.

Railroads

Railway companies operate trains on rail systems in this state and throughout the entire country. They earn most of their revenue from transporting tangible personal property on their rails using their own railroad cars (rolling stock) and from the rental or lease of rolling stock to others. They also charge a fee to other railroad companies for pulling the other company's rolling stock (interchange) to specific destinations. Some railway companies operate passenger services under the auspices of AMTRAK and regional transportation authorities that are usually exempt government entities. The railway company itself owns the locomotive, cabooses, tender vehicles, and washing equipment, and some rolling stock. However, since only one major railway company and a few very small railway companies operate in the state of Florida, the exposure to railway companies is likely to be limited to the taxation of those companies that lease or use railcars.

There are various types of rolling stock, and each type has its own use and purpose. For instance, hopper cars used for transporting minerals are often leased to mining or manufacturing companies by the month, while freight cars may be leased to the same lessee for a single trip. Railway express service companies own or lease freight cars used for the transportation of packages for a fee. Automobile companies may lease transporters, while oil companies lease tankers.

The transportation company may own the terminal facility, or the company may lease the facility from a governmental entity. Within the rail terminals, the company may provide food concessions, vending machines, and lockers and storage facilities; or, for a fee, it may provide space for others to operate food concessions, parking facilities, shuttle buses, and merchandising areas.

Aircraft

Basically, air carriers operate in the same manner as motor carriers. The major difference is that air carriers do not interchange.

Air carriers are governed by the Federal Aviation Authority (FAA). National and international air carriers must be registered with the FAA. Aircraft are usually purchased outside the state and immediately placed into service outside of Florida. Smaller aircraft and service vehicles may be purchased or entered into service within the state. The FAA requires all commercial pilots to maintain detailed logbooks of their travels and operations. These logbooks may be used to determine the nature of the operation.

Although an airline's primary revenue comes from passenger tickets or freight, it often sells items like kennels for animals to travel in and packaging materials for golf clubs and

skis. Airlines also license or sell logo-identified carry-ons and other gifts. Air carriers may sell drinks both in the terminal and in the air over the state. Meals are not usually sold, but are purchased locally from catering companies. Warehousing and other services may be offered to airfreight customers.

It is very common for air carriers who maintain hangars, baggage conveyances, tow bars, and ramps to sell or lease parts and equipment to each other as needed. Emergency repairs are often handled by the airline with the best hanger facility on a fee basis, as normal maintenance is usually done at the airline's hub facility.

Air carriers maintain a variety of vehicles and equipment for loading and unloading passengers and baggage. Most are found at airports within the state, but airlines may also operate sales and customer service facilities at other than terminal locations. Cars and vans used for the transportation of lost baggage, supplies, and other operations are often used. Special vehicles that transport meals to the aircraft are usually owned by the caterer, and fuel tanks and fueling vehicles are usually owned by the oil company.

Some smaller air carriers and charter flights are intrastate in nature, operating between Florida airports. They sell passenger tickets and are also registered with the FAA, and their activities are considered intrastate. Helicopter tour or hot-air balloon rides operators that takeoff and land at the same airport are not considered to be "transportation companies." The fees they charge are considered admissions and are subject to sales tax. The use of a flight trainer aircraft is not considered transportation, but is instead a lease or license to use the aircraft in providing the service of flight training. Such use is taxable to the flight school.

Airport or terminal operators lease space, gates, and other facilities to airlines and aircraft operators. As with other terminal operations, vending machines, souvenir shops, and other merchandise sales may be found. Parking facilities are often offered by the hour and day. Complimentary or fee-charging shuttle buses are also commonly operated by airports. The incidental sale of maps, videos, logo-identified airline merchandise, and supplies occurs at small as well as large airports. Most airports provide vending machines, locker rental, and storage facilities. In addition to these licenses and rentals of real property, the owner of the terminal or airport may also provide food concessions, parking facilities, shuttle buses, and merchandise offered to independent operators for a fee. Counties and municipalities operate many of the larger airports. This affects their taxability for use tax purposes, but does not relieve them of the duty to collect tax on real and personal property rentals.

ACCOUNTING SYSTEMS

The accounting systems of most transportation companies tend to be more standardized than similarly sized companies in other industries. The reason is that all four facets of this industry are highly regulated and each must constantly report to its regulatory agencies. For example, in addition to the usual 1120s, corporate audits, and SEC filings, the USDOT requires truck drivers to complete detailed logbooks. Companies operating motor vehicles of over 26,000 pounds used in interstate commerce are required to file a

quarterly international fuel tax agreement tax return with the Florida (or other state) Department of Highway Safety showing mileage allocation of motor fuels. The FAA requires pilots to complete logbooks as well, and the mileage flown over a state is listed on annual reports. The logs and reports of ocean-going vessels are kept in accordance with international law. Air carriers and bus companies that provide transportation along fixed routes will have a more developed cost-accounting system than will the more fluid trucking industry. Shipping lines generally break cost down by vessel.

From the accounting records, the auditor can verify the point at which a piece of equipment is placed into service. This is an important determination for this industry because the Florida Statutes provide special sales tax considerations for vehicles, vessels, aircraft, and any other equipment used by the transportation industry.

By using the services of independent contractors, a transportation company can reduce its cost of operations by engaging only the number of independents necessary to handle the scheduled freight moves. In addition, it helps to shift the expenses for property and liability insurance, cargo and workman's compensation insurance, vehicle registrations, repairs, and fuels to someone else. It also eliminates the need for other employee benefits. Thus, the independent contractor is responsible for his own expenses and the transportation company is responsible for its own expense.

The income of a transportation company is generated by the movement and handling of freight. The accounting system is established to track or record the income by merely tracing these movements. This is done by use of invoices or tickets issued for both sales of transportation services and miscellaneous items. General ledger charts of accounts and trial balances usually show income by type but not location. However, it is important that the auditor be able to follow the movement of the vehicles or equipment of the company under audit because the location will determine whether sales are taxable or whether repairs to equipment are tax exempt. Accounts payable invoices for trucking companies will consist of driver's road expenses as well as the expenses relating to the operation of fixed facilities. The auditor will find repair invoices from all over the country, not just near terminals, because semi-trailer tractors require a lot of maintenance and may not return to the terminal for months at a time.

Leases of tangible personal property as well as real property are found throughout the transportation industry. Company owned vehicles and vessels are very expensive and cannot be allowed to sit idle. Trip leases and charters of vehicles or vessels are also frequently exchanged among carriers due to excesses or lapses in demand that make it necessary for them to add or reduce capacity in order to serve their customers.

REGISTRATION

New businesses in Florida are required to be licensed and registered by many city, county and state agencies. The Department of Revenue not only requires registration of businesses that collect sales tax, but it also determines how and when the taxes will be paid. Failure to collect or remit sales tax will result in a taxpayer owing the tax as well as

penalty and interest. With these responsibilities comes an additional burden of keeping the required books and records.

Under [Section 212.18, F.A.C.](#), every person desiring to engage in or conduct business in this state as a dealer must register with the Department and obtain a separate certificate of registration for each “place of business” as that term is defined within [Rule 12A-1.060, F.A.C.](#)

A business that is required to register with the Department for the purpose of collecting and remitting sales and use tax may do so by filing a completed Application to Collect and/or Report Tax in Florida, Form DR-1. Alternatively, registration may be secured through the Department’s Internet site and following the prompts for “E-Services.” If Form DR-1 is filed, a processing fee of \$5.00 is required. No fee is required for online registration.

A business with two or more places of business may apply for authorization by the Department to file a consolidated tax return. When authorized to file a consolidated tax return, Form DR-7, the business is required to combine all of the registered location’s sales tax activities on the consolidated return. The consolidated return is filed monthly together with the tax returns for each separate registered place of business.

EXEMPTIONS

Currently, provision for the partial exemption is provided in [Section 212.08\(8\), \(9\) \(a\) and \(b\), F.S.](#), for vessels, motor vehicles, and railroads. Special consideration for air carriers are provided in [Section 212.0598, F.S.](#), and [Section 212.08\(7\) \(ss\), F.S.](#) (See these provisions for more details).

Obtaining a Partial Exemption at the Time of Purchase

Motor Carrier, Railroad Carrier or Air Carrier

In order to obtain the partial exemption provided in [Section 212.08\(9\)\(a\) or \(b\), F.S.](#) for the purchase of a motor vehicle, rolling stock, or parts thereof, to use to transport persons or property in interstate or foreign commerce, the licensed common carrier is required to:

- Hold a valid sales and use tax certificate of registration;
- A valid Direct Pay Permit issued by the Department; and
- Extend a copy of its direct pay permit to the selling dealer at the time of sale

The licensed common carrier is not authorized to extend its resale certificate in lieu of a direct pay permit. In lieu of paying tax on the items subject to the partial exemption, the licensed common carrier is required to accrue use tax based on its mileage apportionment factor (See [Rule 12A-1.064\(4\)\(a\) and \(b\), F.A.C.](#)).

It should be noted that air carriers may be fully exempt pursuant to [Section 212.08\(7\)\(ss\), F.S.](#), therefore, would not be subject to the above paragraph.

Vessels

In order to obtain the partial exemption provided in [Section 212.08\(8\)](#), F.S. at the time of purchasing a vessel, that will be exclusively in non-Florida waters to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes, the licensed common carrier is required to hold a :

- Valid sales and use tax certificate of registration;
- Valid Direct Pay Permit issued by the Department; and
- Execute an affidavit to the selling dealer affirming that the vessel is for exclusive use designated in [Section 212.08\(8\)](#), F.S.

A suggested affidavit is provided in [Rule 12A-1.0641\(4\)\(d\)](#), F.A.C. In lieu of paying tax on the items subject to the partial exemption, the licensed common carrier is required to accrue use tax based on its mileage apportionment factor (See [Rule 12A-1.0641](#), F.A.C.).

Refunds to Claim the Partial Exemption

Carriers entitled to the partial exemption provided in [Section 212.08\(9\)](#), F.S., who have paid tax on item that are subject to the partial exemption may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

Any licensed common carrier or licensed railroad carrier seeking a refund of tax paid in excess of the tax due under the partial exemption must:

- Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. Refer to [Rule 12A-1.064\(7\)\(c\)](#), F.A.C., for a suggested format of a certified statement; and
- File with the Department an Application for Refund-Sales and Use Tax, including the required statement that meets the requirements of [Section 213.255\(2\) and \(3\)](#), F.S., and [Rule 12-26.003](#), F.A.C.

Mileage Apportionment

Vessels, motor vehicles, and rail cars that are used to transport persons or property for hire in interstate or foreign commerce and commercial fishing vessels are subject to the partial exemption provided in [Section 212.08\(8\)](#), [\(9\)\(a\)](#), and [\(b\)](#), F.S.

Tax imposed is based on the ratio of Florida mileage to total mileage traveled by the carrier's vessels, vehicles or rail cars that were used in interstate or foreign commerce or for commercial fishing purposes.

[Rule 12A-1.064](#) and [Rule 12A-1.0641](#), F.A.C. requires licensed common carriers, at the end of each fiscal year of operation, to determine the ratio of Florida highway mileage to total highway mileage traveled by the carrier's motor vehicles, rolling stock, or vessels used in interstate or foreign commerce that had at least some Florida highway mileage

during the fiscal year. The ratio computed is the carrier's mileage apportionment factor to be applied to purchases during the following fiscal year.

During a licensed common carrier's initial year of operation in Florida, the carrier may estimate the mileage apportionment factor on the basis of the ratio of anticipated Florida mileage to anticipated total miles for that year for motor vehicles or railroad rolling stock that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the carrier is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The carrier is required to pay any additional tax due based on the actual mileage apportionment factor. The tax is due with the carrier's return due for the first month of the carrier's second year of operation in this state. The carrier may take a credit or apply to the Department for a refund of tax paid, as provided in [Rule 12A-1.014, F.A.C.](#), when the tax paid based on the estimated mileage apportionment factor exceeds the tax due based on the actual factor for the initial year of operation.

The mileage of vessels from the territorial limit to port dockside and return into international waters, foreign or coastwise, in the continuous movement of persons or property in interstate or foreign commerce is not considered to be mileage in Florida.

The definition of "motor vehicle" includes trailers and semi-trailers operated on the roads of this state. Therefore, a trailer is a motor vehicle, for purposes of proration, only when it is pulled by a tractor. A trailer which travels "piggyback" on a railcar is "cargo" and does not meet the definition of "motor vehicle", for the purposes of proration, since it is not operating on the roads of this state. Therefore, mileage traveled "piggyback on a railcar should not be included in the ratio pursuant to [Section.212.08\(9\)\(b\), F.S.](#), because it is not "mileage traveled by the carrier's motor vehicles."

Example:

A common carrier that provides services anywhere in the United States during the taxable year ended December 31, 1996, shows in its records that it traveled a total of 800,000 miles. The total of miles in Florida was 300,000 miles.

Note: All vehicles have at least some Florida miles and carry interstate goods.

Included in the total everywhere mileage is:

- 10,000 miles traveled by tow/wrecker trucks
- 5,000 miles traveled by maintenance vehicles
- 12,000 miles traveled by executives

Included in Florida mileage is:

- 3,000 miles traveled by tow/wrecker trucks
- 1,000 miles traveled by executives

Florida transactions during the month found in motor carrier's books:

- \$ 80,000 vehicle purchase for interstate (USDOT) service

\$ 2,000	for parts on interstate (USDOT) service
\$ 1,500	for parts on intrastate (non-USDOT) service
\$ 500	vehicle rental for free-running (USDOT)
\$ 800	vehicle for interchange (USDOT)
\$ 8,000	vehicle repair (\$5,000 for USDOT, and
\$ 3,000	for non-USDOT)

Calculation of proration factor and tax due:	Everywhere	Florida
Total mileage	800,000	300,000
Maintenance	(5,000)	
Executive	(12,000)	(1,000)
Tow/Wrecker	<u>(10,000)</u>	<u>(3,000)</u>
Total Qualified miles	773,000	296,000

Qualified Florida miles/ Total everywhere miles = Florida Proration Factor
296,000 / 773,000 = 0.382924 proration factor

Calculating tax due:	<u>Proration</u>
Purchases of vehicle	\$ 80,000.00
Purchase of parts (USDOT)	2,000.00
Free running rental (USDOT)	500.00
Vehicle repair (USDOT)	<u>5,000.00</u>
Total \$87,500 x 0.382924 =	\$ 33,505.85

	<u>Fully Taxable</u>
Parts (non-USDOT)	\$ 1,500.00
Vehicle repair (non-USDOT)	<u>3,000.00</u>
Total	\$ 4,500.00

Total taxable amount \$38,005.85 x 6% = \$2,280.35

Air Carrier

Section 212.0598, F.S., provides for any air carrier utilizing mileage apportionment for Florida corporate income tax purposes, pursuant to Chapter 220, F.S., may elect to be subject to the tax imposed by this chapter on tangible personal property according to the provisions of this section of law.

The election will not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of proration. Accordingly, if the taxpayer elects to apportion its system-wide purchases it must calculate a proration factor that is the same as the apportionment factor as determined per the Corporate Income Statute, Section 220.15, F.S.

The basis of the proration factor shall be the ratio of Florida revenue mileage to system-wide revenue mileage for all aircraft, worldwide. The proration factor shall be determined at the close of the twelve-month period of the carrier's most recently completed fiscal

year. The proration factor shall be applied each month to the carrier's qualified system-wide gross purchases.

A "revenue mile" is the transportation of one passenger or one net ton of freight the distance of one mile for a consideration. When an air carrier is engaged in the transportation of passengers and freight, the fraction shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the taxpayer's relative gross receipts from passenger and freight transportation.

Example 1:

An air carrier is a Florida-based air carrier providing charter ambulance and passenger services anywhere in the United States. During the taxable year ended December 31, XXX1, its records of operations disclosed it carried passengers a total of 500,000 revenue miles of which 310,000 were within Florida. The proration factor is computed as follows:

$$\text{Passenger revenue miles: } \frac{310,000 \text{ (Florida miles)}}{500,000 \text{ (Everywhere miles)}} = .6200$$

The proration factor is computed at the air carrier's year end and is used to apportion that year's corporate taxable income and monthly taxable purchases for the following year. The proration factor is recomputed at the end of each year and it is used in the succeeding reporting period (monthly, quarterly etc.).

System-wide purchases of otherwise taxable tangible personal property during the month of February, XXX2, amounted to \$10,000. A carrier electing to use the proration factor would be subject to the following sales tax liability:

\$10,000	(systemwide gross purchases of otherwise taxable tangible personal property)
<u> x .6200</u>	(proration factor)
\$ 6,200	(basis for the tax)
<u> x .06</u>	(sales tax rate)
\$ 372	(February, XXX2, sales tax liability)

If an air carrier transports **both passengers and cargo** the miles traveled must be broken down and a **weighted proration factor** must be computed separately for each type of activity and then combined.

Example 2:

Using the previous example, passenger revenues and cargo revenues, as well as the miles associated with each activity must be known. In addition to the miles previously computed there are also miles associated with freight transportation. There were a total of 16,000 ton miles of which 8,000 ton miles were traversed in Florida. The total revenues earned were \$54,600 of which \$45,000 was from passenger service and \$9,600 was from freight activity.

Compute the percentage of revenue from passengers and freight services:

$$\frac{\$ 45,000}{\$ 54,600} \text{ (Passenger revenues)} \qquad \frac{\$ 9,600}{\$ 54,600} \text{ (Freight Revenues)}$$

$$\text{Passenger Revenues} = .8242 \qquad \text{Freight Revenues} = .1758$$

Compute the weighted proration factor for each type of activity and combine to determine the total weighted proration factor.

$$\text{Passenger Miles: } \frac{310,000 \text{ (Florida miles)}}{500,000 \text{ (Everywhere miles)}} = .6200 \times .8242 = .5110$$

$$\text{Freight Miles: } \frac{8,000 \text{ (Florida miles)}}{16,000 \text{ (Everywhere miles)}} = .5000 \times .1758 = .0879$$

$$\text{Total Weighted Proration Factor} = .5989$$

The apportionable system-wide purchases are then multiplied by the weighted proration factor to determine the taxable base, which is then multiplied by the appropriate sales tax rate:

Apportionable system-wide purchases	\$10,000.00
Multiplied by the proration factor	<u>x .5989</u>
Florida taxable base	\$ 5,989
Florida tax rate	<u>x .06</u>
Tax due	\$ 359.34

Any air carrier eligible for the election provided in [Section 212.0598, F.S.](#), that does not so elect shall be subject to the tax without proration on the purchase, use, consumption, distribution, and storage for use or consumption in this state of tangible personal property, services, and the lease or rental of, or license in, real property subject to taxation under Chapter 212, F.S.

(See also [TIP 90A01-01](#); [TAA 97A-1063](#), [Rule 12A-1.064](#), and [Rule 12A-1.0641, F.A.C.](#); [Tropical Shipping and Construction Co., LTD v Askew](#), 364 So.2d 433 (Fla. 1978); and [UPS, Inc. v. State Office of Comptroller](#), 443 So.2d. 263 (Fla. 1st DCA 1983)).

SALES

Transportation Charges

Transportation companies are in the business of transporting people and property for a fee. In most cases, the charge made for rendering transportation is considered a service charge and is not subject to tax.

The taxability of transportation charges is based upon whether or not the charges are part of the selling price of a taxable item of tangible personal property. Transportation charges are subject to tax when they are part of the taxable selling price. If the transportation charge is not separately stated, it is part of the selling price, and is subject to tax. If the transportation charge is separately stated; the seller delivers the tangible personal property to the purchaser; and, the purchaser cannot elect to avoid the charge for transportation, the charge is part of the selling price of the item of tangible personal property, and is subject to tax. Otherwise, the transportation charge is not subject to tax.

(See also [Rule 12A-1.045, F.A.C.](#), and [Department of Revenue v. B & L Concepts, Inc., 612 So.2d 720 \(Fla. 5th DCA 1993\)](#)).

PURCHASES

In-State v. Out-of-State

Vehicles, aircraft, vessels, and rail cars purchased by licensed common carriers outside the state and placed in revenue service outside the state are not subject to Florida tax. However, when purchased inside Florida, these items are subject proration.

Repairs, parts, and other items used on vehicles, aircraft, vessel, and rail cars, that are used to transport persons or property for hire in interstate or foreign commerce, purchased by a licensed common carrier outside the state of Florida, but installed in Florida, are subject to proration. Repairs, parts and other items, purchased and installed outside the state are not subject to Florida tax.

Nets, and parts used in the repair of nets, are exempt when used exclusively by commercial fisheries. To claim the exemption, the fishery is required to issue an exemption certificate to the seller. A suggested format of an exemption certificate is provided in [Rule 12A-1.087, F.A.C.](#)

LEASE OR RENTAL OF RAILROAD CARS

The lease or rental of railroad cars by a railroad company for use on its tracks is exempt if the charges are subject to the jurisdiction of the United States Surface Transportation Board and based on hourly, daily, or mileage charges for the presence of a railroad car on the tracks of the railroad company paying the rental charge.

CAR SERVICE

Charges made pursuant to railroad car service agreements are exempt from tax (*See also* [Rule 12A-1.064](#), and [Rule 12A-1.0641, F.A.C.](#))

MISCELLANEOUS ISSUES

Fuel Used in Interstate or Foreign Commerce

Diesel fuel used in vehicles for off-road purposes is subject to the partial exemption provided in [Section 212.08\(4\)\(a\)2., F.S.](#), when:

- The fuel is placed into a separate tank that is not connected to the fuel supply system of a motor vehicle operated by a licensed common carrier, to transport persons or property for hire in interstate or foreign commerce, and the fuel is used to operate a refrigeration unit or other equipment located on the motor vehicle; or
- Used during idle time for the purpose of running climate control systems and maintaining electrical systems in motor coaches that meet the criteria specified in [Section 206.8745\(8\), F.S.](#), when operated by licensed common carriers to transport persons or property for hire in interstate or foreign commerce

Diesel fuel used in locomotives operated by licensed railroad carriers, to transport persons or property for hire in interstate or foreign commerce, is subject to the partial exemption provided in [Section 212.08\(4\)\(a\)2.,F.S.](#) (*See also* [Rule 12A-1.064](#), and [Rule 12A-1.0641, F.A.C.](#)); and [Department of Revenue vs. Air Jamaica, Ltd., 455 So.2d 324 \(Fla. 1984\)](#).

Damage Claims & Demurrage Charges

Carriers may acquire title to damaged and unclaimed property. Carriers use three methods to dispose of the acquired property, and recover freight and storage costs. The three methods are:

- Selling all the goods to a salvage dealer;
- Holding periodic auctions to sell the goods to the public; and
- Operating a salvage store and selling the items to the public

The sale of damaged or unclaimed property acquired through freight claims is considered to be an occasional sale and not subject to the tax, unless the carrier operates a salvage store that sells damaged merchandise that the carrier has acquired in settlement of a damage claim. Sales made by the salvage store are subject to the sales tax and the carrier is required to collect and remit the tax to the Department.

Payments made by the carrier to any person that has suffered damages to his or her merchandise is not a sale of tangible personal property and is not subject to tax even when the carrier retains the damaged property.

The charge for the repair of the damaged property, by the carrier, is subject to tax as a repair of tangible personal property.

Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not subject to tax (*See also* [Section 212.05, F.S.](#); [Rule 12A-1.037](#), [Rule 12A-1.064](#), [Rule 12A-1.0641](#), and [Rule 12A-1.006, F.A.C.](#)).

Meals Served

The sale of meals and beverages by passenger carriers are taxable, but subject to proration. The purchase of beverages, snacks and prepared meals that are not sold to passengers are taxable when delivered to the carrier in Florida.

(*See* [Air Jamaica, Ltd. v. State, Department of Revenue](#), 374 So. 2d 575, (Fla. 3rd DCA 1979); TAA 00A016, TAA 97A1063, TAA 92A1025, TAA 90A1029, TAA 88A1276, TAA 88M-002; and TIP 90A01-01.)

GLOSSARY OF TERMS

- Common Carrier:** Any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or property, or any class or classes of property for the general public in interstate or foreign commerce by motor vehicle for compensation
- A common carrier has been generally defined as “one who holds himself out to the public as engaged in the business of transporting persons or property from place to place, for compensation, offering his services to the public generally. The distinctive characteristic of a common carrier is that he undertakes to carry for all people indifferently and hence he is regarded, in some respects, as a public servant. The dominant and controlling factor in determining the status of one as a common carrier is his public profession or holding out, by works or by a course of conduct, as to the service offered or performed”.
- Commerce Clause:** Article I S.8 Cl.3 U.S. Constitution: authorizes the U.S. Congress to “regulate commerce with foreign nations and among the several states.” Courts have ruled that states may tax but not impede interstate commerce. Florida’s proration of common carriers is an outgrowth of this ruling.
- Commercial Fishing Vessel:** Rule 12A-1.0641(2)(c), F.A.C., defines the term "Commercial fishing vessels" to "... include vessels designed, constructed, and used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters for sale. Vessels used for sports or pleasure fishing, such as pleasure fishing boats, charter boats, or party boats, are not commercial fishing vessels."
- Contract Carrier:** Any person who, or which under special and individual agreements, and whether directly or by a lease or by other arrangement, transports passengers or property in interstate or foreign commerce by motor vehicle for compensation
- Foreign Commerce:** Commerce between any place in the United States, and any place in a foreign country, or between places in the United States through and foreign country
- Foreign Flag:** A ship or aircraft that is registered in a foreign country
- GPSS:** Acronym for Global Positioning Satellite System, an inexpensive radio which uses satellites placed by the U.S. government to report the exact location of certain objects anywhere on earth. Many ICC carriers use this system to report to the dispatcher the exact location of their trucks at all times. Ships and aircraft also use this locator system.
- ICC:** U.S. Interstate Commerce Commission that registers common carriers. Dissolved December 29, 1995
- Interchange:** The transfer of vehicles between two carriers to complete transportation of goods for a shipper
- Interstate Commerce:** Commerce between any place in a state and any place in another state, or between places in the same state through another state
- Intrastate Commerce:** Operating solely within the state
- Line-Haul:** Vehicles involved and used in moving goods from terminal to terminal.

Load-Locks:	Expanding bars or straps used to prevent cargo from shifting during transport
Local Haul:	Vehicles involved and used in moving goods from specific locations of shippers and receivers
OMC:	Office of Motor Carriers (Under USDOT); licenses and registers motor carriers
Revenue Mile:	Transportation of one passenger or one net ton of freight one mile
Rolling Stock:	Hopper cars, tankers, freight cars, and car transporters of a railway company
Terminal:	A station at the end or at a major junction of a transportation line