

Note: For additional exemptions see TIP No. 00A01-10

Florida Department Of Revenue
Tax Information Publication

TIP 00A01-02
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Exemption For Lease or License of Property Upon Which Certain
Antennas, Equipment, and Structures are Placed

SUPPLEMENT TO TIP NO. 99A01-25

Effective July 1, 1999, there is an exemption from sales tax on the portion of real property, excluding buildings, upon which are placed antennas, cables, adjacent accessory structures, or adjacent accessory equipment that are used to provide 1) cellular, 2) enhanced specialized mobile radio, or 3) personal communication services.

The exemption applies to lease/license agreements for the placement of antennas, cables, and equipment upon towers that are used to provide one of the following services:

1. Cellular Radiotelephone Service ("cellular")

Cellular radiotelephone service, also known as "cellular," is defined by the Federal Communications Commission (FCC) to mean "an automated, high-capacity system of one or more multichannel base stations designed to provide radio telecommunications services to mobile stations over a wide area in a spectrally efficient manner." Cellular service refers to mobile, over-the-air, two-way telephone service. Cellular radiotelephone service operates in the frequencies of 824-849 MHz and 869-894 MHz. A carrier engaged in providing cellular service is licensed by the FCC, and is governed by the regulations provided in 47 CFR, part 22, subpart H.

2. Enhanced Specialized Mobile Radio (ESMR)

Enhanced specialized mobile radio (ESMR), also known as "covered" SMR, refers to a specialized mobile radio service that uses digital technology, and that is connected to the Public Switched Telephone Network (PSTN). ESMR service generally allows for two-way telephone communications, and may include other features such as two-way paging, inventory tracking, credit card authorization, automatic vehicle location, fleet management, inventory tracking, remote database access, and voice mail. ESMR operates in the frequency of 806-940 MHz. A carrier engaged in providing ESMR is licensed by the FCC, and is governed by the regulations provided in 47 CFR, part 90, subpart S.

3. Personal Communication Services (PCS)

Personal communication services includes two subsets: broadband PCS and narrowband PCS.

Broadband PCS refers to a group of three digital wireless phone technologies in North America. These are GSM 1900, CDMA IS-95, and TDMA IS-136. Broadband PCS is a second generation of cellular service using digital technology that may include enhanced features such as messaging and data services. Broadband PCS operates in the frequency of 1850-1990 MHz. A carrier engaged in providing broadband PCS is generally licensed by the FCC, and is governed by the regulations provided in 47 CFR, part 24, subpart E.

Narrowband PCS refers to an advanced digital messaging service, which may include two-way paging, response paging, data transfer, and digital voice messaging. Narrowband PCS operates in the frequency of 901-902 MHz, 930-931 MHz, and 940-941 MHz. A carrier engaged in providing narrowband PCS is generally licensed by the FCC, and is governed by the regulations provided in 47 CFR, part 24, subpart D.

The exemption also applies to the lease or license of land to place an adjacent accessory structure (i.e., the mini-building

next to most towers) that is used to provide one of the three enumerated services. However, the lease or license of property upon which the tower itself is placed **remains subject to sales tax**, unless the property is assessed as agricultural property for ad valorem tax purposes. Additionally, the lease or license of space on a building (i.e., a rooftop) for the placement of any antennas or equipment **would not qualify for this exemption**, since the statutory language specifically excludes buildings.

The lease or license of space to place antennas or equipment used to provide a radio service other than the three mentioned above remains subject to sales tax. For example, the license of space on a tower to attach FM radio equipment, air-ground radiotelephone equipment, or paging equipment (other than that used to provide PCS or ESMR) remains subject to sales tax.

Attached is a suggested exemption certificate to be provided by a qualifying carrier to a lessor or licensor of real property.

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For more information call Tax Information Services, Monday - Friday, 8:00 a.m. to 5:00 p.m., ET, at 850-488-6800.

Hearing or speech impaired persons should call our TDD at 1-800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Tax Information Services, 1379 Blountstown Highway, Tallahassee, FL 32304.

For forms and other information, visit our Web site at <http://sun6.dms.state.fl.us/dor/>.

Get tax forms quickly by FAX ON DEMAND. Call 850-922-3676,

twenty-four hours a day, seven days a week, using your fax machine handset and follow the instructions.

References:

- Ch. 99-363, L.O.F.
- Section 212.031(1)(a)5., F.S.
- Section 212.05(1)(e)1.a., F.S.
- 47 C.F.R., part 22, subpart H
- 47 C.F.R., part 90, subpart S
- 47 C.F.R., part 24, subparts D, E

SUGGESTED EXEMPTION CERTIFICATE FOR LEASE, LICENSE, OR RENTAL OF REAL PROPERTY, OTHER THAN BUILDINGS, UPON WHICH CERTAIN ANTENNAS, EQUIPMENT, AND STRUCTURES ARE PLACED -- FOR USE ON OR AFTER JULY 1, 1999.

_____ (Lessee/Licensee's Name) certifies that the lease, license, or rental of space is to be used for the placement of antennas, cables, adjacent accessory equipment, or adjacent accessory structures that are used in providing cellular, enhanced specialized mobile radio, or personal communication services. The undersigned understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor, or to any agent of the state, a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

_____	_____
Lessee/Licensee's Name	Florida Sales Tax
(Print or Type)	Certificate #

_____	_____
Florida Gross Receipts Tax #	FCC License Number

Antennas/Equipment used to provide (check one): _____

Cellular ___ ESMR ___ PCS

Signature and Title of authorized Date
representative

Federal Employer Identification Telephone Number
Number

(Form to be retained in lessor/licensor's records)