

**Florida Department of Revenue
Tax Information Publication**

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FLOORING CONTRACTORS AND DEALERS

**APPLICATION OF SALES AND USE TAX
SALES AND INSTALLATION**

This Tax Information Publication discusses the application of sales and use tax to flooring dealers that furnish and install carpet, vinyl, tile, or wood flooring. In the case of carpeting, this publication applies only to furnishing and installing carpet when the carpet is installed using glue, tacks, or other permanent methods, and when the carpet will serve as the finished floor. Flooring dealers that furnish and install carpet or other flooring are making improvements to real property. This does not apply to other types of carpeting, such as area rugs, that are not installed by such methods.

Use Tax Due on Lump Sum, Cost Plus or Fixed Fee, Guaranteed Price, or Time and Materials Contracts

When a job is sold using a lump sum, cost plus or fixed fee, guaranteed price, or time and materials contract, the carpet **dealer owes use tax on the purchase price** of the carpet, pad, and installation materials, supplies and equipment used in the performance of the job. **Flooring dealers should not charge sales tax to their customers when they have one of these types of transactions.**

Rule 12A-1.051(4), Florida Administrative Code, states:

(4) General rule of taxability of real property contractors. Contractors are the ultimate consumers of materials and supplies they use to perform real property contracts and must pay tax on their costs of those materials and supplies, unless the contractor has entered a retail sale plus installation contract. Contractors

performing only contracts described in paragraphs (3)(a), (b), (c), or (e) do not resell the tangible personal property used to the real property owner but instead use the property themselves to provide the completed real property improvement. Such contractors should pay tax to their suppliers on all purchases. They should also pay tax on all materials they fabricate for their own use in performing such contracts, as discussed in subsection (10). They should charge no tax to their customers, regardless of whether they itemize charges for materials and labor in their proposals or invoices, because they are not engaged in selling tangible personal property. Such contractors should not register as dealers unless they are required to remit tax on the fabricated cost of items they fabricate to use in performing contracts. (Emphasis supplied.)

Paragraphs (3)(a), (b), (c), and (e) discuss lump sum, cost plus or fixed fee, guaranteed price, and time and materials contracts, respectively.

Sales Tax Due on Retail Sale Plus Installation Contracts

If flooring dealers sell flooring materials at retail, sales tax must be collected from customers on the sales price of the materials.

A flooring dealer may also furnish and install flooring materials pursuant to a retail sale plus installation contract. Rule 12A-1.051(3)(d), Florida Administrative Code, describes a retail sale plus installation contract as follows:

(d) Retail sale plus installation contracts. These are contracts for improvements to real property in which the contractor or subcontractor agrees to sell specifically described and itemized materials and supplies at an agreed price or at the regular retail price and to complete the work either for an additional agreed price or on the basis of time consumed. In order for a contract to fit in this category, all the materials that will be incorporated into the work must be itemized and priced in the contract before work begins. If a contract itemizes some materials but

does not itemize other materials that will be incorporated into the work, the contract is not included in this category. Because the sale of the materials is a separable transaction from the installation, the purchaser must assume title to and risk of loss of the materials and supplies as they are delivered, rather than accepting title only to the completed work. The contractor may remain liable for negligence in handling and installing the items. (Emphasis supplied.)

If flooring dealers sell and install carpet or other flooring materials pursuant to a retail sale plus installation contract, meeting all the requirements in the above Rule*, **sales tax must be charged to the customers on the sales price of the materials sold.** All materials to be used must be detailed as to item description, quantity and unit price. **Sales tax should not be charged on the installation charges, and use tax should not be paid on the purchase price of the materials sold.**

If a flooring dealer gives a copy of its Annual Resale Certificate to its vendors, use tax must be accrued on materials and supplies used in the performance of lump sum, cost plus or fixed fee, guaranteed price, or time and materials contracts. The use tax must be remitted on the Sales and Use Tax Return (Form DR-15), along with sales tax collected on the dealer's taxable sales.

*To meet the requirements of Rule 12A-1.051(3)(d), F.A.C., the flooring dealer must itemize every item that is to be sold in the contract at a specific quantity for a specific price. The contract must list the carpet, glue, tape, tacks, boards, and any other material used for the specific contract at the moment into which the contract is entered.

References: Section 212.06(14), Florida Statutes; Rule 12A1.051(3)(a)-(e), and (4), Florida Administrative Code

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 forms and other information, visit our Internet site at www.myflorida.com/dor. Or call Taxpayer Services, 8:00 a.m., to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 (Florida only), or 850-488-6800.

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

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.

To receive a fax copy of a form, call 850-922-3676 from your fax machine telephone.