

Florida Reduces Sales Tax on Commercial Rent

Effective January 1, 2018, the sales tax on the total rent or license fee charged under a commercial lease of real property (i.e., business rent tax) has been reduced from 6 percent to 5.8 percent.

Florida is the only state in the United States to impose such a tax. Thus, many critics feel that the tax has discouraged Florida's economic growth, including Governor Rick Scott, who has led the repeal movement.

It should be noted that Florida's general revenue stream is very heavily reliant on sales tax in general. For the 2016-17 fiscal years, the sales tax on commercial rent accounted for 78.5 percent of all such revenue. As a result, prior efforts to phase out the tax have stalled. This year, however, the Legislature in HB-7109, took a baby step forward by reducing the rate from 6 percent to 5.8 percent, or a 3.33 percent reduction.

Section 212.031(1) has been amended as follows effective January 1, 2018:

(c) For the exercise of such privilege, a tax is levied at the rate of 5.8 ~~in an amount equal to 6~~ percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.8 ~~6~~ percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(e) The tax rate in effect at the time that the tenant or person, occupies, uses, or is entitled to occupy or use the real property is the tax rate applicable to the transaction taxable under this section, regardless of when a rent or license fee payment is due or paid. The applicable tax rate may not be avoided by delaying or accelerating rent or license fee payments.

Landlords and management companies sending out invoices for rental periods commencing on or after Jan. 1, 2018, should revise their invoice software to account for the 0.2 percent reduction in the state tax rate.