

# Rhonda H. Smith, Inc.

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## How to Understand Sales and Use Tax in Florida

I would like to share with you some of the information I learned at a Sales and Use Tax seminar presented by Fred Pryor Seminars. I will present this information in a Q & A format.

I must pass along the disclaimer by Fred Pryor Seminars not only as their disclaimer but also as mine.

**DISCLAIMER: The principles and suggestions on How To Understand Sales and Use Tax are presented to apply to diverse personal and company situations. The materials and overall seminar are for general informational and educational purposes only. The materials and seminar, in general, are presented with the understanding that Fred Pryor Seminars (and Rhonda H. Smith, Inc) is not engaged in rendering legal advice. *Companies and employers with significant legal issues and questions about sales and use tax should consult an attorney.***

1. What is the sales tax rate in Florida?

A. The state sales tax rate is 6%, however many counties also require discretionary sales tax. Furthermore, the state uses a bracketed tax system which means you cannot simply calculate the percentage on the total sale and come up with the correct amount of tax, in most cases you will undercharge by at least one cent. Although this doesn't sound like much last year in the state it amounted to over \$41 million in lost revenue. QuickBooks cannot account for the bracketed method of collecting sales tax although there are software packages which claim to work with QuickBooks to calculate correctly.

2. When I sell products to customers in Florida do I charge sales tax for my county or theirs?

A. If they walk into your store you charge the state sales tax plus your store location's county discretionary sales tax (if applicable), if you ship your product to the customer you charge the state sales tax plus their county discretionary sales tax (if applicable). Florida is considered a *destination* state, meaning you charge the sales tax based on the destination.

3. If I sell to a business that has a tax exempt certificate are sales to that customer tax exempt?

A. YES, if the product they are buying is *directly* for use of their particular type of business activities and if they pay with a check, credit card, or purchase order with the same name as is listed on the exempt certificate. You will need to have a copy of the exempt certificate for your files. However, you must *charge sales tax* if the customer is purchasing a product that is not directly for the use of their business activities (such as a chicken farmer buying dresses as this is not directly for use in that line of business) or if an employee of the business buys products and pays with their own credit card.

4. Do I report all sales on the sales tax return or only the taxable sales?

A. All sales. The report(s) of sales should match your IRS tax return. There is a place on the tax return to account for non-taxable sales.

5. If I have no "Use" tax can I just leave that line blank?

A. NO. If you leave the "Use" line blank there is no statute of limitations for auditing.

6. Why would I owe "Use" tax?

A. There are at least 10 reasons you would owe "Use" tax. One of the biggest is by purchasing things online and not paying sales tax. Most people owe "Use" tax.

7. Do I owe sales tax when I invoice a customer or when I receive the payment?

A. In Florida sales tax is due when you invoice a customer, not when they pay the invoice. Even if they only pay part of the invoice, or pay a deposit, the sales tax is due on the entire invoice per the date of the invoice.

8. Is shipping taxable?

A. For the most part YES. Shipping and tax need to be separate line items. NEVER create a sales receipt or invoice that says shipping and taxes included. Tax and shipping should always be separate line items.

9. If I sell products online to customers in other states do I owe sales tax?

A. If there is Nexus. The common reasons Nexus exists are; an employee lives in the state, the business owns property in the state, the business advertises in the state, or the business stores inventory in the state. There are more reasons that are less common and the reasons vary from state to state. Some cities in others states also have different rules.

10. If I buy items for use in my business and pay sales tax do I need to keep those receipts?

A. YES. Not only do you need to keep the receipts, if they are printed on thermal paper you should photo copy the receipts as the thermal paper will fade. If you are audited and the receipt cannot be read you may be assessed the sales tax plus penalties and interest.

11. Do all businesses have to register to report and pay Sales and Use Tax?

A. If you retail a product then YES. If you ever buy products for use in your business and do not pay sales tax on the purchase, YES, as this becomes "Use" and is subject to "Use" tax. If you register you must file reports even if you owe no Sales or Use tax otherwise you will receive a penalty for not reporting. You will either be required to report monthly or quarterly, the state will make this determination.

12. Am I liable for paying sales tax on purchases or is the seller liable?

A. Florida is considered a "Transaction" state therefore both parties are liable for the tax until one party pays it.

13. What should I do if I am audited?

A. Call me. I will give you some suggestions on how to handle the audit. There are some key things you should know.

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## Avoid the top 10 Sales and Use Tax filing errors:

1. **Late Filing** - File on time for each collection period, even if no tax is due. When you file on time, you can claim up to \$30 as a collection allowance. If you file a paper return, you can [sign up](#) to receive an e-mail every collection period, reminding you of the due date. (Electronic filers are automatically signed up to receive reminders when they enroll.)
2. **Not Fully Completing the Front and Back of the Return** - Complete all information on your return, including your signature and your preparer's signature.
3. **Not Filing for Each Collection Period** - File a separate return for each collection period. Do not skip collection periods or add a partial collection period to the next return.
4. **Not Providing Discretionary Sales Surtax Information on Back of the Return** - If you are reporting discretionary sales surtax (county tax) collected, you must complete the back of your return. Take our tutorial [How to Calculate, Collect, and Report Your Discretionary Sales Surtax](#) [You may need to disable blocking pop-ups for this site]
5. **Inaccurately Computing Tax** - Compute the correct sales tax, including discretionary sales surtax (county tax), if any, using the appropriate [bracket card](#).
6. **Including Tax Collected with Gross Sales** - Tax collected should never be included in gross sales. If you include the tax collected in gross sales, it will increase your amount of tax due and you will receive a bill for additional tax due.
7. **Entering Transactions on the Wrong Lines** - Sales reported on lines A through E of the DR-15 may have different tax rates. If you enter your transactions on the wrong lines, you could receive a bill for additional tax due.
8. **Calculating the Collection Allowance Incorrectly** - Your collection allowance is limited to 2.5 percent (.025) of the first \$1,200 of tax due. The maximum collection allowance is \$30. If you have less than \$1,200 in tax due, your collection allowance will be less than \$30.
9. **Not Computing Penalties and Interest** - If your return is late, you lose your collection allowance and you must pay penalty and interest on the tax owed. A minimum penalty of \$50 applies, even if no tax is due.
10. **Not Filing a Zero Return** - File a return for each collection period, even if the amount due is zero. This could help you avoid penalties and follow-up contacts from the Department.

Source: <http://dor.myflorida.com/dor/forms/errors.html>

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## Additional Resources

Florida Dept of Revenue <http://dor.myflorida.com/dor/>

Florida Dept of Revenue Main Sales & Use Tax Page [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html)

Discretionary Sales Surtax Information <https://taxlaw.state.fl.us/wordfiles/SUT%20TRC%20DRS-15DSS.pdf>

Overview of Sales & Use Tax Online Tutorial

[http://dor.myflorida.com/dor/training/nbo\\_temp/firefox3/index.html?dhtmlActivation=inplace](http://dor.myflorida.com/dor/training/nbo_temp/firefox3/index.html?dhtmlActivation=inplace)

Sales & Use Tax Bracket Tables <http://dor.myflorida.com/dor/forms/index.html#sales>