



**Florida Department of Revenue**  
*Technical Assistance and Dispute Resolution*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

QUESTION: Whether taxiways at an airport used exclusively for taxiing aircraft are not taxable?

ANSWER: The areas at an airport used exclusively to taxi aircraft is not subject to tax. The determination of the portion of the rental not subject to tax may be done by using square footage information available to the landlord and tenant.

August 21, 2020

XXX  
XXX  
XXX

Re: Technical Assistance Advisement No. 20A-015  
AMS #: 354959

Sales and Use Tax  
Real Property Rentals; Airport Taxiways  
Section 212.031, Florida Statutes (F.S.)  
Rule 12A-1.070, Florida Administrative Code ("F.A.C.")

XXX ("Petitioner")("Tenant")  
FEIN: XXX

XXX ("Landlord")

Dear XXX:

This is in response to your request dated March 19, 2020, for a Technical Assistance Advisement (TAA) pursuant to s. 213.22, F.S., and Rule Chapter 12-11, Florida Administrative

Code (F.A.C.), concerning XXX rental charges. An examination of your letter has established that you have complied with the statutory and regulatory requirements for issuance of a TAA. Therefore, the Department is hereby granting your request for a TAA.

### **FACTS**

Tenant operates airport hangars. XXX operates an airport. Tenant and XXX entered into a lease agreement involving airport space, including taxiing areas, hangar space, and a retention pond. The request provides that the XXX determined that the lease provided for 1.8 acres of taxiing areas. The remainder of the leased premises were for hangars and a retention pond.

Tenant provided diagrams of the leased premises. The taxiways include most of the paved areas surrounding the hangars.

### **REQUESTED RULINGS**

Tenant and XXX maintain that the sales tax imposed on real property rentals does not apply to the taxiways. Tenant proposes to allocate the taxability of the rental payments based on the square feet of the areas. Tenant and XXX indicate that the 1.8 acres for the taxiway areas divided by the total acreage of the leased premises should be applied to the total rental to determine the portion of the rent not subject to sales tax.

### **LAW AND DISCUSSION**

Section 212.031, F.S., requires landlords to collect sales tax on the total rent received from leasing real property. Section 212.031(1)(a)7., F.S., provides an exemption for property used at an airport exclusively for the purpose of aircraft taxiing.

The exemption only applies if the areas designated as taxiways by the XXX and Tenant are **exclusively** (solely) used for taxiing purposes. The areas cannot also be used to park aircraft or for regular vehicular traffic. If the hangar areas are used for tie-down or storage space for aircraft, then those portions of the hangar areas are subject to the tax imposed by s. 212.03(6), F.S., which is the uniform rate other than the reduced rate imposed by s. 212.031, F.S.

Section 212.031(1)(b), F.S., provides for allocation of rental charges involving multi-use leased property when a portion of the property is not subject to sales tax. The statute provides for an allocation based on the information available. Tenant and XXX propose to allocate the rental charge using the square footage information obtained by the parties. Rule 12A-1.070(1)(a)6.c., and (8), F.A.C., provide examples of the use of square footage information to apply a proration allocation.

### **RESPONSE**

The area for taxiways leased by Tenant from XXX are not subject to sales tax so long as the property is exclusively used as a taxiway and not any other use. The method to allocate the total rental charge proposed by Taxpayer is a reasonable method to allocate the taxable and nontaxable portions of the rental charge.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related documents are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details, which might lead to identification of the taxpayer, must be deleted before disclosure.

In an effort to protect the confidentiality of such information, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, backup material and response within fifteen days of the date of this advisement.

Sincerely,

*Chuck Wallace*

Chuck Wallace  
Conferee  
Technical Assistance and Dispute Resolution

Record ID: 354959