

Communications Services Tax

Chapter 202, Florida Statutes

Brief Overview

The Communications Services Tax Simplification Law was enacted to restructure taxes on telecommunications, cable, direct-to-home satellite, and related services that existed prior to October 1, 2001.¹ The definition of communications services encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium. The law replaced and consolidated seven different state and local taxes or fees with a single tax comprised of two components: a state communications services tax and a local communications services tax. The tax is imposed on retail sales of communications services which originate and terminate in the state, or originate or terminate in the state and are billed to an address within the state. Tax proceeds are transferred to county and municipal governments, the Public Education Capital Outlay and Debt Service Trust Fund, and the state's General Revenue Fund.

State Communications Services Tax

The state communications services tax consists of two components: a state tax and a gross receipts tax. A state tax is imposed on the retail sale of communications services at the rate of 6.8 percent while the retail sale of any direct-to-home satellite service received in this state is taxed at the rate of 10.8 percent.² The second component is the gross receipts tax of 2.37 percent that is applied to communications services, which includes direct-to-home satellite service.³

Consequently, local, long distance, or toll telephone; mobile communications; private line; pager and beeper; telephone charges made by a hotel or motel; fax; telex, telegram, and teletype services; and cable services are taxed at the state rate of 6.8 percent plus the 2.37 percent gross receipt rate for a total of 9.17 percent. Direct-to-home satellite service is taxed at the state rate of 10.8 percent plus the gross receipts rate of 2.37 percent for a total of 13.17 percent.

Local Communications Services Tax

A county or municipality may, by ordinance, levy a local communications services tax.⁴ The local tax rates vary, depending on the type of local government. For municipalities and charter counties that have not chosen to levy permit fees, the tax may be levied at a rate up to 5.1 percent. For municipalities and charter counties that have chosen to levy permit fees, the tax may be levied at a rate up to 4.98 percent. Non-charter counties may levy the tax at a rate of up to 1.6 percent. These

1. Refer to the Department of Revenue's Communications Services Tax: An Overview of Florida's Tax Restructuring (http://dor.myflorida.com/dor/taxes/pdf/Cst_ovr.pdf) for a more detailed explanation of the 2001 tax law changes.

2. Section 202.12(1), F.S.

3. Section 203.01(1)(b), F.S.

4. Section 202.19(1), F.S.

maximum rates do not include add-ons of up to 0.12 percent for municipalities and charter counties or up to 0.24 percent for non-charter counties that have elected not to require and collect permit fees authorized pursuant to s. 337.401, F.S., nor do they supersede conversion or emergency rates authorized by s. 202.20, F.S., which are in excess of these maximum rates.⁵ In addition to the local communications services taxes, any local option sales tax that a county or school board has levied pursuant to s. 212.055, F.S., is imposed as a local communications services tax, and the rate shall be determined in accordance with s. 202.20(3), F.S.⁶

General Law Amendments

There were no general law amendments resulting from the 2009 Regular Legislative Session.

Eligibility Requirements

County and municipal governments receive proceeds of the state communications services tax via the County Revenue Sharing Program, Local Government Half-cent Sales Tax Program, and Municipal Revenue Sharing Program. Counties, municipalities, and school boards may be eligible to receive proceeds of the local communications services tax.

Administrative Procedures

The communications services taxes, as imposed pursuant to Chapters 202 and 203, F.S., (i.e., the gross receipts tax on communications services) shall be paid by the purchaser and shall be collected from the purchaser by the dealer of such services. Each dealer who makes retail sales of communications services shall add the amount of applicable taxes to the price of services sold and shall state the taxes separately from the price of services on all invoices.⁷

The Department of Revenue (DOR) administers the statewide collection of both the state and local components of the communications service tax. Dealers who collect local communications services tax must notify the DOR of the method employed to accurately assign addresses to the appropriate taxing jurisdiction. The DOR maintains a database that provides the local taxing jurisdiction for all addresses in Florida. The database contains county and municipal names for every address and is based on information provided by the local taxing jurisdiction and updated at least once every six months.⁸

The amount of revenue collected is dependent on the jurisdiction's local communications services tax rate. A county government's local communications services tax is charged to those billable

5. Section 202.19(2), F.S.

6. Section 202.19(5), F.S.

7. Section 202.16, F.S.

8. Section 202.22, F.S.

customers residing within the unincorporated area. A municipal government's local communications services tax is charged to those billable customers residing within the incorporated area.

The proceeds of each local communications services tax levied by a county or municipality, less the DOR's costs of administration, shall be transferred to the Local Communications Services Tax Clearing Trust Fund for distribution to counties and municipalities. The amount deducted for administrative costs may not exceed 1 percent of the total revenue generated for all taxing jurisdictions, and the total administrative costs shall be prorated among those taxing jurisdictions on the basis of the amount collected for a particular jurisdiction relative to the amount collected for all such jurisdictions.⁹

Any adoption, repeal, or change in the rate of a local communications services tax imposed under s. 202.19, F.S., is effective with respect to taxable services included on bills that are dated on or after the January 1st subsequent to such adoption, repeal, or change. The local government must notify the DOR of the adoption, repeal, or change by September 1st which immediately precedes the January 1st effective date.¹⁰

Distribution of Proceeds

State Communications Services Tax

As previously mentioned, the state communications services tax consists of the components: a 6.8 percent tax on communications services, a 10.8 percent tax on direct-to-home satellite service, and a 2.37 gross receipts tax on communications services, which includes direct-to-home satellite service. The proceeds derived from the 2.37 percent gross receipts tax on communications services, including direct-to-home satellite service, are transferred to the Public Education Capital Outlay and Debt Service Trust Fund, which serves as a funding source for public school capital construction. The proceeds derived from the 6.8 percent state tax on communications services, except direct-to-home satellite service, are distributed by the same formula used for distribution of the state sales and use tax, as prescribed in s. 212.20(6), F.S., which directs portions of the available proceeds to the County Revenue Sharing Program, Local Government Half-cent Sales Tax Program, and Municipal Revenue Sharing Program via their separate trust funds.¹¹

The proceeds derived from the 10.8 percent state tax on direct-to-home satellite service are distributed pursuant to s. 202.18(2), F.S.¹² This provision specifies that 63 percent of the proceeds are distributed by the state sales and use tax distribution formula prescribed in s. 212.20(6), F.S., with an adjustment to s. 212.20(6)(d), F.S. The remaining 37 percent of the proceeds are transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund with 70 percent allocated in the

9. Section 202.18(3), F.S.

10. Section 202.21, F.S.

11. Section 202.18(1), F.S.

12. Section 202.12(1)(b), F.S.

same proportion as the ordinary distribution under s. 218.61, F.S., and the emergency distribution under s. 218.65, F.S., in the prior state fiscal year, and 30 percent shall be allocated pursuant to the distribution for fiscally constrained counties under s. 218.67, F.S.

Local Communications Services Tax

The amount of tax revenues available for distribution to local governments is dependent on each jurisdiction's local communications services tax rate. The tax revenues, less the DOR's administrative cost deduction, are distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5), F.S., shall be distributed in the same manner as the local option sales taxes.¹³

Authorized Uses

The revenues derived from the local communications services tax may be used for any public purpose, including the pledge of such revenues for the repayment of current or future bonded indebtedness. Revenue raised by a tax imposed pursuant to s. 202.19(5), F.S., shall be used for the same purposes as the underlying local option sales tax imposed by the county or school board pursuant to s. 212.055, F.S.¹⁴

Relevant Attorney General Opinions

Florida's Attorney General has issued an opinion relevant to this revenue source. The full text of this opinion is available via the searchable on-line database of legal opinions.¹⁵ In a recent search, the LCIR staff identified the following opinion pertaining to this revenue source.

<u>Opinion #</u>	<u>Subject</u>
2008-14	Records, lease payments as proprietary information

Local government officials seeking more clarification should review the opinion in its entirety. The statutory language pertaining to this revenue source has been amended since its authorization. The reader should keep the date of the opinion in mind when reviewing its relevance to current law or any interpretations that have been articulated in Florida case law.

Local Tax Rates

The DOR maintains a list of historical, current, and upcoming local tax rates.¹⁶

13. Section 202.18(3), F.S.

14. Section 202.19(8), F.S.

15. <http://myfloridalegal.com/ago.nsf/Opinions>

16. http://dor.myflorida.com/dor/taxes/local_tax_rates.html

Forecast of Taxable Communication Services and Revenues

Local Fiscal Year Ending September 30, 2010

Local Government	Estimated Comm. Services Tax Base	Current Tax Rate	Base 11 Revenue Estimate	2008 Revenue Sharing Pop.	Per Capita Consumption	Adjustment Estimates	Total Revenue Estimate
SUWANNEE BOCC*	\$ 19,616,413	1.84%	\$ 360,942	33,503	586	\$ 13,506	\$ 374,448
Bradford	\$ 856,944	4.60%	\$ 39,419	712	1,204	\$ (125)	\$ 39,294
Live Oak	\$ 6,290,128	5.60%	\$ 352,247	6,712	937	\$ 3,278	\$ 355,525
TAYLOR BOCC	\$ 6,907,264	1.84%	\$ 127,094	13,414	515	\$ 12,967	\$ 140,061
Perry	\$ 5,847,343	5.62%	\$ 328,621	6,832	856	\$ (22,856)	\$ 305,765
UNION BOCC	\$ 3,270,493	1.84%	\$ 60,177	8,293	394	\$ 20	\$ 60,197
Lake Butler	\$ 2,130,452	5.10%	\$ 108,653	1,922	1,108	\$ 6,592	\$ 115,245
Raiford	\$ -	0.00%	\$ -	262	-	\$ -	\$ -
Worthington Springs	\$ 189,876	5.00%	\$ 9,494	453	419	\$ -	\$ 9,494
VOLUSIA BOCC	\$ 84,451,783	5.22%	\$ 4,408,383	115,711	730	\$ (1,119,043)	\$ 3,289,340
Daytona Beach	\$ 70,784,403	5.22%	\$ 3,694,946	64,874	1,091	\$ (64,131)	\$ 3,630,815
Daytona Beach Shores	\$ 5,541,696	5.22%	\$ 289,277	5,461	1,015	\$ 2,985	\$ 292,262
DeBar	\$ 15,221,071	5.22%	\$ 794,540	18,913	805	\$ 11,534	\$ 806,074
DeLand	\$ 23,418,944	5.22%	\$ 1,222,469	27,331	857	\$ 7,314	\$ 1,229,783
Deltona	\$ 56,732,378	6.22%	\$ 3,528,754	85,921	660	\$ 59,582	\$ 3,588,336
Edgewater	\$ 15,471,806	5.22%	\$ 807,628	21,618	716	\$ 24,032	\$ 831,660
Flagler Beach (part)	\$ 74,798	5.10%	\$ 3,815	76	984	\$ -	\$ 3,815
Holly Hill	\$ 10,707,526	5.22%	\$ 558,933	12,944	827	\$ 8,284	\$ 567,217
Lake Helen	\$ 1,954,288	5.22%	\$ 102,014	2,871	681	\$ 256	\$ 102,270
New Smyrna Beach	\$ 22,486,121	5.22%	\$ 1,173,776	23,730	948	\$ 21,311	\$ 1,195,087
Oak Hill	\$ 1,072,253	3.50%	\$ 37,529	1,978	542	\$ 1,155	\$ 38,684
Orange City	\$ 9,893,447	5.22%	\$ 516,438	9,556	1,035	\$ (2,819)	\$ 513,619
Ormond Beach	\$ 41,119,153	5.22%	\$ 2,146,420	40,914	1,005	\$ 69,772	\$ 2,216,192
Pierson	\$ 1,079,323	5.10%	\$ 55,045	2,657	406	\$ (928)	\$ 54,117
Ponce Inlet	\$ 3,527,790	5.42%	\$ 191,206	3,299	1,069	\$ 6,023	\$ 197,229
Port Orange	\$ 45,293,121	5.22%	\$ 2,364,301	57,218	792	\$ 84,105	\$ 2,448,406
South Daytona	\$ 10,519,232	5.72%	\$ 601,700	13,765	764	\$ 27,354	\$ 629,054
WAKULLA BOCC	\$ 18,160,138	1.84%	\$ 334,147	28,269	642	\$ (5,800)	\$ 328,347
Saint Marks	\$ 184,421	5.10%	\$ 9,405	323	571	\$ 2,584	\$ 11,989
Sopchoppy	\$ 246,800	1.20%	\$ 2,962	424	582	\$ 990	\$ 3,952
WALTON BOCC	\$ 48,707,152	0.70%	\$ 340,950	48,886	996	\$ 211,290	\$ 552,240
DeFuniak Springs	\$ 5,156,265	4.82%	\$ 248,532	5,132	1,005	\$ 82,428	\$ 330,960
Freeport	\$ 1,825,969	1.30%	\$ 23,738	1,503	1,215	\$ 4,779	\$ 28,517
Paxon	\$ 406,822	2.60%	\$ 10,577	740	550	\$ (29)	\$ 10,548