

# State of Florida Department of Revenue

Sales and Use Tax	1990-1994 Technical Assistance Advisements
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Title: **Car Wash**/Self-Service

Aug 13, 1990

RE: TAA 90A-052 **Wash** and Wax Jobs Provided by Automatic or Self-Service **Car Wash**  
Sections 212.02(15)(c), (17); 212.05(1)(a)1.a., (f);  
212.07(2); 212.12(12), F.S.  
Rules 12A-1.007(19), F.A.C.(1989); 12A-1.007(7)(C),  
F.A.C.(1983)

Dear

This is in response to your letter dated June 8, 1990, in which you requested the issuance of a Technical Assistance Advisement (TAA), on behalf of your client, XXX (hereinafter "**Car Wash**"), on the question whether a self-service or automatic **car wash** provided with or without wax is subject to Florida sales tax. You have described the operation of your client's business as follows:

"[**Car Wash**'s] **car wash** business provides its customers with the option of using a self-service **car wash** or an automatic **car wash**. If a customer uses the self-service **car wash**, the customer deposits quarters into a coin box which provides the customer with minutes of use of the self-service **car wash** for each \$XX that the customer deposits into the coin box. A self-service customer may choose from a variety of products to be dispensed including, plain water, detergent, degreaser and wax. The products are dispensed from a hand held spray gun.

"In addition to the self-service **car wash**, the customer may choose to have his or her **car washed** by an automatic **car wash**. If the customer uses the automatic **car wash**, the customer can either deposit \$XX in change into a coin box for a **wash** only or the customer can deposit an additional \$XX into the coin box (a total of \$XX ) and receive a **wash** and wax. Both the self-service **car wash** and the automatic **car wash** are performed solely by the customer. (**Car Wash**) does not provide any attendants to **wash** or wax the customer's **car**. The only [**Car Wash**] employee on the premises is an employee who is available to explain the operation of the equipment, if necessary, keep the premises in an orderly condition and make sure that the equipment is properly functioning . . .

You go on to describe previous contact with the Department of Revenue regarding the instant issue:

"In June of 1989, this Firm called the Department of Revenue (the 'Department') for oral advice on whether [Car Wash's] self-service and automatic car washes that dispense wax would be subject to Florida sales tax. We were advised that the Department had decided not to collect any sales tax on wax jobs from operations such as [Car wash]. Based on the informal advice of the Department, [Car Wash] has been paying sales tax on products used in its car wash business, and it has not been collecting any sales tax on the self-service wash and/or wax or the automatic wash and/or wax.

"Recently, (Car Wash) has been notified of a Department memorandum dated December 14, 1989 relating to car washes,... [Car Wash] believes that memorandum does not apply to its operations and that the oral advice given by the Department that its car wash and wax operations are not subject to Florida sales tax is the correct position, and [Car Wash] is submitting this ruling request for a determination that its operations are not subject to Florida sales tax."

Finally, you have stated the issues posed in your TAA request and the "rulings requested" in response to those issues:

"ISSUES

- "1. Whether [Car Wash's] self-service car washes without wax are subject to the Florida sales tax.
- "2. Whether [Car Wash's] self-service car washes that dispense wax are subject to the Florida sales tax.
- "3. Whether [Car Wash's] automatic car washes without wax are subject to the Florida sales tax?
- "4. Whether [Car Wash's] automatic car washes that dispense wax are subject to the Florida sales tax?
- "5. If the self-service or automatic car washes that dispense wax are subject to the Florida sales tax, is the sales tax calculated on the cost of the wax job or the entire cost of the wash and wax?

"RULINGS REQUESTED

- "1. The cost of [Car Wash's] self-service car washes without wax are (sic) not subject to Florida sales tax.
- "2. The cost of [Car Wash's] self-service car washes that dispense wax are (sic) not subject to Florida sales tax.
- "3. The cost of [Car Wash's] automatic car washes without wax are (sic) not subject to Florida sales tax.
- "4. The cost of [Car Wash's] automatic car washes that dispense wax are (sic) not subject to Florida sales tax."

You do not state a "ruling requested" under number 5., but further along in your letter you state your position regarding Issue 5. in the following terms:

"If the Department decides to... assert that either the self-service or automatic **car washes** that dispense wax are subject to sales tax, the sales tax should be due only on the cost of the wax job (for example, \$XX in the case of the automatic **car wash**) and an appropriate credit should be given for the taxable purchases of (**Car Wash**) that are included in the cost of the wax job."

Section 212.02(17), F.S., defines "sales price," stating in pertinent part:

"`Sales price', means the total amount paid for tangible personal property, including any services that are a part of the sale,... without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost... or any other expense whatsoever. Sales price, also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property...."

Rule 12A-1.007(7)(c) and (8), F.A.C., as amended on October 13, 1983, stated:

"(7)(c) The charge for a plain auto **wash** job, in which nothing is added to the water but a detergent or water softener, is not subject to the tax. When wax, silicones, or any other substance is added that forms a protective film, the charge for the entire job, including the charge for the **wash**, is subject to the tax.

"(8) All detergents and cleaners purchased by dealers and rental agencies are taxable. Vehicle polishes purchased by such dealers for use in conditioning vehicles for sale are exempt. Polishes are exempt when purchased and used by the lessor in conditioning vehicles for rental when the rental is taxable."

Rule 12A-1.007, F.A.C., as amended on January 2, 1989, includes the former subsection (8), quoted above, as subsection (19), with no change in language. The former subsection (7) is now subsection (18), and paragraph (c), also quoted above is no longer included in the rule. The exclusion of this paragraph from the amended Rule 12A-1.007, F.A.C., does not represent any change in the Department's position regarding the taxable status of **car washes** when wax, silicones, or any other substance that forms a protective film is added to the job. Consistent with the definition of "sales price" in s. 212.02(7), F.S., it is the position of this Department that when wax, silicones, or any other substance is added that forms a protective film on the automobile or other vehicle, the charge for the entire job is subject to sales tax, including the charge for the **wash**, if any. On the other hand, the charge for a plain auto **wash** job, in which nothing is added to the water but a detergent or water softener, is not subject to sales tax.

In the Analysis section of your request for TAA, you have described other types of commercial establishments that wax **cars**. The first of these is an operation that hand waxes vehicles. The waxing follows a preparatory **washing** of the

vehicle, and you state that the charge is normally in the range of \$30 to \$50. Secondly, you discuss a type of **car wash** business that you describe as "the full-service automatic **car wash**". The **washing**, other cleaning services, and waxing are performed by employees of the establishment. You state that the charge will be in the range of \$10 to \$20, depending on the services a customer chooses.

In your analysis, you readily acknowledge the appropriateness of charging sales tax on the payment for a combined **wash** and wax job performed by either of the types of establishments described in the preceding paragraph. However, you have enunciated a contrary position concerning the application of tax when wax is included in a **car wash** provided by your client:

"The **car wash** business operated by [Car wash] is clearly distinguishable from hand-wax operations and full-service automatic **car wash** operations. [Car Wash's] operation is a totally self-service operation including its automatic **car wash**, in which no labor is provided by [Car wash]. [Car Wash] merely provides the equipment and the customer does all the work to **wash** and/or wax his or her vehicle."

"With both [Car Wash's] self-service and automatic **car wash**, the primary cost is associated with the plain **car wash**. Only after the plain **car wash** has been completed is the wax applied for which there is a relatively de minimus (sic) charge. Because [Car Wash's] operation is substantially different from the hand-wax operation and the full-service automatic **car wash** operation, the rules that apply to those operations do not apply to [Car Wash]. For the reasons stated below, [Car Wash's] operation should not be subject to the Florida sales tax."

In the subsequent paragraphs, you state the reasons you believe your client's operation should not be subject to sales tax. These objections may be summarized as follows:

- (1) The cost of the plain **car wash** is not subject to tax. Since **Car Wash** does not supply any labor or services to its customers, the charge for the **wash** and wax job will not be taxable under s. 212.02(17), F.S. only the charge for wax could be taxable in **Car Wash's** operation.
- (2) **Car Wash** pays sales tax on all of its equipment, parts, detergents, waxes, energy sources, and other products used in its **car wash** business. If the cost of the wax job is taxable, **Car Wash** should receive back the sales tax it paid on all these products, otherwise, the Department would be subjecting **Car Wash** to double taxation in violation of s. 212.12(12), F.S.
- (3) It is not practical to allocate or apportion tax to jobs in which wax is used. **Car wash** would be due a tax credit on equipment and supplies used for these jobs.
- (4) Because it is impractical to separate taxable and nontaxable transactions, and because **Car wash** pays taxes on all products purchased for use in its **car wash** operation, the Department should continue to take the position that it espoused in its oral advice to [Car Wash] that [Car Wash's] self-service and automatic **car washes** that dispense wax are

not subject to Florida sales tax."

(5) Policy consideration should be given to the environmentally sensitive equipment and products used by **Car Wash** and the salutary effects this has on the environment, including the conservation of water.

Initially, we must deal with your assertion, first stated in objection (2) and implicit in objections (3) and (4), that if **Car Wash** must collect and remit sales tax on the charge for **car washes** which include wax, then it should receive back the sales tax it paid on the purchases of all of the equipment, parts, detergents, waxes, energy sources, and other products used in its **car wash** business, according to an allocation based on the **wash** and wax jobs subject to sales tax. Sections 212.05(1)(a)1.a. and (f) and 212.02(15)(c), F.S., impose sales tax upon retail sales of tangible personal property, including but limited to the overhead items listed below:

1. Machinery and equipment;
2. Parts and accessories to machinery and equipment;
3. Tools;
4. All supplies;
5. Office furniture and fixtures;
6. Electricity, including electricity used in the **car washing** and waxing process.

These purchases are subject to tax because your client is the ultimate or final consumer of these classes of tangible personal property. Section 212.12(12), F.S., states the legislative intent that there be no duplication of the tax and that the end consumer or the last retail sale is the sale intended to be taxed. It does not constitute double taxation when the legal incidence of taxation falls on two separate and distinct transactions:

1. The purchase of overhead items, including machinery and equipment, as provided in ss. 212.05(1)(a)1.a. and 212.02(15)(c), F.S.
2. The charge for auto **wash** and wax jobs, as authorized by s. 212.02(17), F.S.

Under the provisions of subsection (19) of Rule 12A-1.007, F.A.C. (1989; quoted above as subsection (8), 1983), the polish or other substance which is considered to become part of the vehicle held for sale or rental is exempt. However, materials (detergents and cleaners) used to perform the service of **washing** the vehicle, and which do not adhere to it, are taxable. The same rationale will apply to purchases made by the operator of a **car wash**. Detergents and other cleaning substances are taxable. When purchasing wax, silicones, or other substance that forms a protective film, the operator should extend a resale certificate to his vendor in lieu of paying tax on such materials.

As to your objection (1), we agree to the extent that the charge for either a self-service or automatic **car wash** without wax or any other substance that forms a protective film on the automobile is not subject to sales tax. Therefore, we answer your Issues 1. and 3. in the negative, as you have requested. You contend that no labor or service is provided to the customer

by **Car Wash**. On the contrary, the customer pays for and receives a service from your client in the use of the equipment. Consequently, by operation of s. 212.02(17), F.S., when wax, silicones, or any other substance is added that forms a protective film on the automobile or other vehicle, the charge for the entire job is subject to sales tax, including the charge for the **wash**, if any. Therefore, we answer your Issues 2. and 4. affirmatively, contrary to your requests. In answer to Issue 5., we reiterate that for self-service or automatic **car washes** that dispense wax the sales tax is calculated on the charge for the entire **wash** and wax job. We do not consider the charge for the wax to be a de minimus charge.

Your fifth and final objection concerns the stated environmental sensitivity of the equipment used by **Car Wash**. While concern by your client for the effect its activities have on the environment is laudable, there is no statutory exemption provided for the use of specific kinds of equipment by **car wash** operations. Such policy decisions are not the province of the Department of Revenue but must be left to the collective judgment of the Legislature.

You stated in your description of **Car Wash's** operation (quoted above) that the customer places change into a coin box to pay for the self-service **car wash** or the automatic **car wash**. We assume that your client would not be able to collect sales tax at the time of sale but would have to extract tax from the gross receipts. Section 212.07(2), F.S., states in part:

"... Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry..."

In your objections (3) and (4), you have stated that it is impractical to separate the taxable and nontaxable transactions in **Car Wash's** operation, but that opinion was partly based on the assumption that **Car Wash** would be due credits for tax paid on all equipment and supplies used in the operation. As we have explained in detail above, only wax, silicones, or other substance that forms a protective film would be exempt from sales tax if purchased with a resale certificate, while all other equipment and supplies used in the **car wash** operation are taxable.

In the operation of **Car Wash's** automatic **car wash**, the customer chooses whether to use wax along with the **washing** of the vehicle, and there is an extra \$1.00 charge for the wax. If **Car Wash** is able to separate those transactions which involve the use of wax, it should remit tax on the entire charge for each **wash** and wax job, while a plain **wash** job, with no wax used, is not subject to tax. If **Car Wash** is unable to distinguish between the transactions in which wax is used and those in which it is not used, a proration of taxable and non-taxable transactions will be possible if **Car wash** can establish the quantity of wax that is extracted from the appropriate receptacle for each **wash** and wax job. Dividing that amount into the total amount of wax used over a period of time would establish the number of **wash**

and wax jobs, for which the entire charge is taxable. The remaining receipts would be presumed to be for plain auto wash jobs, which are not taxed. Of course, Car wash would be required to maintain adequate records to document this proration. If no proration is possible, each automatic car wash transaction will be presumed to be taxable.

In the operation of Car Wash's self-service car wash, there is no additional charge for the use of wax, and Car Wash clearly has no way to separate customers who use wax with the car wash and those who do not. In this case, since there is no additional charge for the use of the wax, it is presumed that wax will be used by every customer. Each self-service car wash transaction is taxable.

Where it is not possible to collect tax on each transaction at the time of sale under the brackets stated in s. 212.12(9), F.S., it is the position of the Department, as authorized by section 212.07(2), F.S., that for auto wash and wax jobs provided through coin-operated facilities, sales tax shall be calculated at an effective rate of 6.59 percent. In order to compute the correct amount of tax due for each month, the operator of the facility should divide that month's total taxable receipts by 1.0659 to compute gross taxable sales and then subtract gross taxable sales from total taxable receipts to arrive at the amount of sales tax due. In order to use a lower tax rate than 6.59 percent for any month, the operator's books and records for that month must clearly demonstrate without exception a lesser tax rate.

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 and your request 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 by the Department before disclosure. In an effort to protect the confidentiality of such information, we request you notify the undersigned in writing within 15 days of any deletions you wish made to the request or the response.

Yours sincerely,

Malcolm A. Craig  
Technical Assistant

MAC/c

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