

Client Alert

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Shumaker, Loop & Kendrick, LLP

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Florida's Sales Tax Reduction Requires Commercial Lease Parties to Recalculate Their Rent Schedules

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Florida is one of the only states in the country that levies a tax on commercial leases, and is the only state to do so in any comprehensive manner. Governor Rick Scott and the Florida legislature have been attempting to phase out this tax since 2014, with each legislative session ending in failure - until this year.

One of the final versions of House Bill 7109 permanently lowered the sales tax rate on commercial leases to 5.5% beginning January 1, 2020, with an even larger interim reduction to 4.5% until then. However, to actually achieve passage, the bill was watered down at the last minute.

The version of the bill ultimately approved by the legislature and signed by the governor on May 25, as a revision to Section 212.031, Florida Statutes, permanently reduces the sales tax rate on commercial leases in Florida to 5.8%, effective January 1, 2018. It is estimated that this will save Florida businesses approximately \$61 million annually.

As before, there may be an additional county levy (e.g., an additional 1% in Hillsborough and Pinellas Counties). The statute was also amended to explicitly state that the tax rate applicable to any rental payment is the rate in effect during the period of occupancy relevant to such payment, not the time of payment of such rent. So the delay or acceleration of any rental payment is irrelevant to the rate applicable to the remittance.

We encourage our clients that are in any commercial leasing arrangement to account for this accordingly in their collections and remittances, beginning in 2018.

Gregory Haney is an attorney in Shumaker, Loop & Kendrick, LLP's Commercial Landlord-Tenant practice group. Shumaker has a team of seasoned attorneys in each of its offices who specialize in commercial landlord-tenant matters. We help landlords and tenants large and small negotiate and craft lease and related agreements that best reflect the client's business needs and risk considerations. At Shumaker, our attorneys bring years of experience to each matter and understand that landlords and tenants have unique circumstances and goals requiring individualized attention. Shumaker's attorneys understand the business as well as the legal needs of our landlord and tenant clients and continually strive to assure both are addressed in strategy and execution.

Shumaker's commercial landlord-tenant practice has the size and depth to represent commercial property owners and tenants in every type of transaction and dispute that impacts their business. If you have questions, please contact Gregory Haney at ghaney@slk-law.com.

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