

3 Percent Federal Withholding Law Frequently Asked Questions for Florida's Vendors

1. Where can I find a copy of this federal law?

This mandate became federal law through the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), which created Section 3402(t) of the Internal Revenue Code. See Section 511 of Public Law 109-222. The U.S. Treasury issued final regulations for this Federal law on May 9, 2011. You may find copies of the federal law and final regulations at the Department of Financial Services' 3 Percent Withholding website at <http://www.myfloridacfo.com/aadir/IRS3PercentWithholding.htm>.

2. When was this law passed and when does it take effect?

This mandate became law on May 17, 2006. Governmental entities must begin the withholding under this law on January 1, 2013.

3. Will I, as a State of Florida vendor, be affected by the 3% withholding requirement?

In general, vendors that receive a payment that is \$10,000 or more for property or services from the State of Florida or its state agencies will be subject to 3% withholding. The following types of vendors will be exempt from the 3% withholding requirement:

- Governmental Entities
- Tax-exempt Organizations
- Certain Payments to Non-Resident Aliens
- Foreign Governments
- Foreign Corporations
- Indian Tribal Governments
- Certain Pass-Through Entities [entities with ownership of 80% or more by a governmental entity required to withhold under section 3402(t)(1) or tax exempt entity]

4. What type of payments will be affected by the 3% withholding requirement?

Any payment for property or services of \$10,000 or more will be subject to 3% withholding. The threshold will only be applied to individual payments made by the State. Multiple payments to a single vendor will not be added together to apply the threshold. However, payments cannot be separated to avoid the withholding. If you submit multiple invoices to a state agency over a short period of time (such as within a few days), the state agency may combine your invoices into one payment. In this case, if the payment is \$10,000 or more, even if multiple invoices are being paid, the payment will be subject to 3% withholding.

The following payments will be exempt from the 3% withholding requirement:

- Interest
- Payments for the purchase of real property and real property lease payments (However, payments for construction of real property will be subject to 3% withholding, such as constructing a building, road, or other real property.)

- Payments in connection with public welfare or a public assistance plan (These payments must be made based on a needs or income test.)
- Payments made in an emergency or disaster situation if the emergency or disaster is declared by the Secretary of the U.S. Treasury
- Payments on binding contracts in effect at December 31, 2012, unless the contract has been materially modified after December 31, 2012

5. How will this affect my payment if I am subject to the 3% withholding requirement?

When the State of Florida or its agencies pay your invoice, you will receive 97% of the total invoice amount. The remaining 3% becomes withholding tax and the State of Florida will remit this amount to the Internal Revenue Service on your behalf.

6. How will I know whether my payment has been subject to the 3 withholding requirement?

If your payment has been subject to the 3% withholding requirement, this information will be provided in multiple ways. If you receive your payment from the State of Florida via electronic funds transfer (EFT), you will be able to look up this information on the Vendor History website at <https://flair.dbf.state.fl.us/caspub/vnpayhst.htm>. This website allows a vendor to search for their payments from the State of Florida, and it will be modified effective January 1, 2013 to include withholding information. In addition, if you are still receiving an EFT remittance in the mail, this remittance will also reflect your payment and withholding information. If you receive your payment via a State warrant, your remittance information attached to your warrant will provide the withholding information. You can also access this information on the Vendor History Website mentioned above.

7. How does this 3% withholding affect my income taxes?

You will receive a Form 1099 from the State of Florida by January 31st of the following year which will show the amount of withholding tax remitted on your behalf for the previous tax year. This amount can then be applied on your Federal Income Tax Return to offset any Income Tax Liability. *Please note: This information is not intended to provide any tax advice. You should consult with your tax advisor to better understand how this new federal law will affect your federal income taxes.*

8. Who do I contact at the State of Florida if I have questions regarding this law?

You may contact the Florida Department of Financial Services (DFS)' Vendor Management Section in the following ways:

- E-mail – 3percent@myfloridacfo.com
- Telephone – (850) 413-5519
- For further information on the 3 Percent Federal Withholding Law, visit DFS' website at <http://www.myfloridacfo.com/aadir/IRS3PercentWithholding.htm>.