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I own the commercial building in which I operate my business. The building is owned in a separate legal entity from my business entity. A friend told me that I should be paying state sales tax on the rent I pay from one entity to the other. Is this correct?

This is a very common question and many people usually do not know of this rule. The straight answer is yes. You need to be remitting sales tax to the State of Florida (6% currently in Brevard) on the amount of rent you pay from one entity to the other. This applies even if you own both entities in separate LLCs and you are the only owner. If the building and the operating business are not in the same legal entity and the operating business entity pays rent directly to the rental entity you owe sales tax on that amount.

Sales tax also applies if the operating business entity pays bills on behalf of the rental entity. This applies primarily to items that are the responsibility of the rental entity such as the mortgage payment, building insurance, and real estate taxes. This assumes that a written lease does not require the tenant to pay these items in what is called a triple net lease. In addition, you need to make sure that you have created a written lease between the two entities and make sure that it states the amount being paid in rent as well as how much the sales tax is on that rent.

Now if you have not been remitting the sales tax to the Florida Department of Revenue (FDOR), you need to start doing this as soon as possible. If this is a new relationship that was started (i.e. you just bought the building within the last couple of months), then prepare Form DR-1 (which can be obtained on the internet) and file this form with the FDOR.

If this has been going on for a much longer time (say more than 3-6 months), the state has a program called Voluntary Disclosure. This can only apply if the state does not know about you and has not previously contacted you on this issue. By entering into this program you calculate the sales tax due for the last 3 years and the state usually abates 100% of the penalty and you pay 75% of the interest.