



5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

QUESTION: Are Taxpayer's Florida sales of "cranial prosthetics," (i.e., wigs) subject to Florida sales tax without the purchaser providing a valid prescription at the time of purchase?

ANSWER: Yes. Taxpayer's Florida sales of cranial prosthetics are subject to Florida sales tax.

March 14, 2023

[REDACTED]
[REDACTED]
[REDACTED]

Via Email: [REDACTED]

Re: Technical Assistance Advisement – 23A-005
[REDACTED] ("Taxpayer")
Sales and Use Tax – Prosthetic and Orthopedic Appliances
Section: 212.08, Florida Statutes - ("F.S.")
Rule: 12A-1.021, Florida Administrative Code - ("F.A.C.")
BP #: [REDACTED]
FEI: [REDACTED]

Dear Taxpayer:

This is in response to your electronic mail dated January 26, 2023, requesting this Department's issuance of a Technical Assistance Advisement ("TAA") pursuant to Section(s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C, Florida Administrative Code, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

Requested Advisement

Are Taxpayer's Florida sales of "cranial prosthetics," (i.e., wigs) subject to Florida sales tax without the purchaser providing a valid prescription at the time of purchase?

Facts

Taxpayer asserts that it sells "cranial prosthetics" to buyers in Florida who are diagnosed with either alopecia or a form of cancer, both of which usually result in partial to complete permanent hair loss.

Taxpayer Position

Taxpayer's position is that "buyers are required to purchase cranial prosthetics after hair loss to alleviate symptoms of their illnesses and to live normal lives. Due to the lifelong chronic nature of these conditions, Taxpayer opines that its sales of cranial prosthetics should be exempt from Florida sales tax without the requirement that a buyer provide a valid prescription at the time of purchase because many buyers do not receive numerous prescriptions for their prosthetics, do not feel comfortable providing the prescription during the purchase, or are inconvenienced by the process of obtaining a prescription."

Law and Discussion

Unless a specific exemption applies, s. 212.05, F.S., provides it is the legislative intent that every person is exercising a taxable privilege that engages in the business of selling tangible personal property¹ in this state. For exercising such a privilege, a tax is levied on each taxable transaction or incident. The tax is due and payable at the rate of 6 percent, plus any applicable surtaxes imposed under s. 212.055, F.S., on the total consideration received for each item or article of tangible personal property when sold at retail in this state. Exemptions from tax are strictly construed against the claimant. Wanda Marine Corp. v. Dep't of Revenue, 305 So. 2d 65, 69 (Fla. 1st DCA 1975).

Section 212.08(2)(a), F.S., provides that prosthetic and orthopedic appliances² are specifically exempt from tax when dispensed according to an individual prescription written by a prescriber authorized by law. Additionally, prosthetic appliances or orthopedic appliances are exempt if specifically included on the *Nontaxable Medical Items and General Grocery List*, form DR-46NT, as approved by the Department of Business and Professional Regulation. *See also* Rule 12A-1.021(1), F.A.C.

All sales of tangible personal property (e.g., wigs) in Florida are taxable, unless a specific exemption applies. There is no specific exemption for the sales of cranial prosthetics (i.e., wigs) in Florida. The cranial prosthetics do not meet the definition of prosthetics and orthopedic appliances. Consequently, since no specific exemption applies, Taxpayer's sales of cranial prosthetics in Florida are subject to Florida sales tax.

Conclusion

Taxpayer's sales of "cranial prosthetics" (i.e., wigs) in Florida are subject to Florida sales tax.

This response constitutes a TAA 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.

¹ Section 212.02(19), F.S., defines the term, "tangible personal property," as "personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses."

² Prosthetic and orthopedic appliances" means "any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, used to alleviate the malfunction of any part of the body, or used to assist any disabled person in leading a normal life by facilitating such person's mobility." *See* s. 212.08(2)(b)1, F.S., and Rule 12A-1.021(1)(a), F.A.C.

You are further advised that this response, your request and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for TAA, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850)717-6363.

Sincerely,

Leigh L. Ceci

Leigh L. Ceci, MAcc
Tax Law Specialist
Technical Assistance & Dispute Resolution
(850)717-6363

Record ID: 7000914023

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7000914023

Respondent code: 44

Tax type: Sales and Use Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.