



Florida Department of Revenue
Technical Assistance and Dispute Resolution

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

QUESTION: Does Taxpayer qualify for the Florida sales and use tax exemption provided under s. 212.031(1)(a)10., F.S., based on the facts presented with this request?

ANSWER: Taxpayer qualifies as an exhibition hall for the Florida sales and use tax exemption provided under s. 212.031(1)(a)10., F.S., based on the facts presented with this request.

May 30, 2024

[REDACTED]

Re: Technical Assistance Advise ment – TAA #: 24A-007
[REDACTED] (“Taxpayer”)
Sales and Use Tax – Concessionaire License
Sections 212.02, 212.031, Florida Statutes - (“F.S.”)
Rules Florida Administrative Code - (“F.A.C.”)
BP #: [REDACTED]

Dear [REDACTED],

This is in response to your letter dated [REDACTED], requesting this Department’s issuance of a Technical Assistance Advise ment (“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

Does Taxpayer qualify for the Florida sales and use tax exemption provided under s. 212.031(1)(a)10., F.S., based on the facts presented with this request?

FACTS

You state in the letter:

1. Taxpayer is a [REDACTED] corporation.
2. The principal place of business and mailing address of Taxpayer is [REDACTED].
3. Taxpayer's identifying numbers are as follows: FEI/EIN: [REDACTED] and Certificate of Exemption Number [REDACTED] (Exhibit A).
4. Taxpayer operates and manages the facilities and property owned by [REDACTED] (the "County") and known and designated as [REDACTED] [REDACTED] pursuant to an [REDACTED] between the [REDACTED] and [REDACTED].
5. [REDACTED] is the sole owner of the [REDACTED], which is located at [REDACTED].
6. The [REDACTED] has been a [REDACTED] since it opened to the public in [REDACTED]; it welcomes [REDACTED] annually.
7. The [REDACTED] is a [REDACTED] and premier cultural attraction in the County that preserves its cultural and environmental resources to engage people in connecting with the [REDACTED].
8. Taxpayer entered into an agreement with [REDACTED] (the "Operator") for the operation of a Café and Shop on the premises of the [REDACTED] (the "Café and Shop Agreement"). (See Exhibit C).
9. The principal place of business and mailing address for the Operator is [REDACTED]. FEI/EIN: [REDACTED] (Exhibit B).
10. The Café and Shop Agreement grants the Operator a license to use the facilities located in the [REDACTED] (the "Premises") to provide "Café and Shop services to [REDACTED] patrons; cater programs, meetings and special events when engaged by Taxpayer to do so ("Internal Catering"); and to provide "food, beverages, and/or merchandise for purchase by patrons at [REDACTED] programs or events" and operates for the benefit of visitors to the [REDACTED]. (See Exhibit C, Café and Shop Agreement, Section 3, 4, and 9). The Café and Shop Agreement includes as [REDACTED], [REDACTED] that specifically identify the Premises.
11. Under the Café and Shop Agreement, Taxpayer collects a "Total Monthly Payment," which consists of the following (See Exhibit C, Café and Shop Agreement, Section 10):
 - a. Monthly Rent of [REDACTED] for use of the Premises;
 - b. Monthly fee for utility services in the amount of \$ [REDACTED];
 - c. A percentage of the Operator's monthly gross receipts (less the Monthly Rent) based on the matrix as shown in Attachment C, Café and Shop Agreement, Exhibit C; and
 - d. A \$ [REDACTED] Gathering Fee for each small catered gathering (maximum capacity [REDACTED]) that the Operator organizes in a [REDACTED].
12. The Operator is independently responsible for collecting and remitting sales tax to the State of Florida for all of its food and merchandise sales.

LAW AND DISCUSSION

Section 212.031(1)(a), Florida Statutes (F.S.), provides it is the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property, with certain enumerated exceptions. A "license" to use real property is defined in s. 212.02(10)(i), F.S., as "... the granting of a privilege to use or occupy a building or a parcel of real property for any purpose."

Section 212.031(1)(a)10., F.S., also provides, in relevant part, the following exemption for a person providing food and drink concessionaire services:

Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

No definition of "exhibition hall" is provided by statute. Thus, it is necessary to look to principles of statutory construction. Words of common usage, when used in a statute, should be construed in their plain and ordinary sense, Pederson v. Green, 105 So.2d1(Fla. 1958). Using common language, an exhibition hall is a building or room in a building in which exhibits are displayed. The exemption is granted for leases, rentals, and licenses to use premises at specified venue-types, such as exhibition halls, to persons providing food and drink concessionaire services.

Based on the above, Taxpayer would be considered to be an "exhibition hall" as defined in s. 212.031. F.S.

CONCLUSION

Under the specific facts presented, Taxpayer is an "exhibition hall" for purposes of s. 212.031(1)(a)10., F.S., and Taxpayer's Agreement with Restaurant qualifies for the Florida sales and use tax exemption set forth therein.

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.

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)717-6839.

Sincerely,

Xiaoxi Miao

Xiaoxi Miao
Tax Law Specialist
Technical Assistance & Dispute Resolution
(850)717-6839

Record ID: 7001127351

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: 7001127351

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.