

Notice of Emergency Rule

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:

12AER21-1 Sales Tax Holiday on Specific Admissions and Outdoor Activity Supplies During the Period of July 1 through July 7, 2021.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 45 of Chapter 2021-31, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the provisions of the law specifying a period during which the sale of admissions to music events, sporting events, cultural events, specified performances, movies, museums, state parks, and fitness facilities are exempt from sales tax, including the sales of qualifying boating and water activity supplies, camping supplies, fishing supplies, general outdoor supplies, and sports equipment. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the exemption during the period of July 1 through July 7, 2021.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 45 of Chapter 2021-31, Laws of Florida. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the provisions of Section 45 of Chapter 2021-31, Laws of Florida.

SUMMARY: The rule describes the items included in the exemption and explains how various transactions are to be handled for purposes of the exemption, including sales of sets of both exempt and taxable items, items normally sold as a unit, remote sales, shipping and handling charges, layaway sales, rain checks, exchanges, coupons, rebates, and discounts, repairs and alterations, gift cards, rentals of exempt items, and merchant's license fees. The exemption does not apply to sales within a theme park or entertainment complex, as defined in Section 509.013(9), F.S., or within a public lodging establishment, as defined in Section 509.013(4), F.S., or within an airport, as defined in Section 330.27(2), F.S.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Danielle Boudreaux, Technical Assistance and Dispute Resolution, telephone (850)717-7082, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER21-1 Sales Tax Holiday on Specific Admissions and Outdoor Activity Supplies During the Period of July 1 through July 7, 2021.

(1) Definitions. For purposes of this rule, the following definitions apply:

(a) "Holiday period" means the period from July 1, 2021 through July 7, 2021.

(b) "Admissions" has the same meaning as provided in s. 212.02(1), F.S.

(c) "Remote sale" has the same meaning as provided in Section 5, Chapter 2021-2, Laws of Florida.

(2) The following items are always exempt from sales tax:

(a) American flags and Florida flags.

(b) Bicycle helmets marketed for use by youth.

(c) Prescription sunglasses or lenses, including items that become a part thereof.

(3) Admission sales.

(a) During the holiday period, no tax may be collected on the sale by way of admissions for the following:

1. A live music event scheduled to be held on any date or dates from July 1, 2021, through December 31, 2021.

2. A live sporting event scheduled to be held on any date or dates from July 1, 2021, through December 31, 2021.

3. A movie to be shown in a movie theater on any date or dates from July 1, 2021, through December 31, 2021.

4. Entry to a museum, including any annual passes.

5. Entry to a state park, including any annual passes.

6. Entry to a ballet, play, or musical theatre performance scheduled to be held on any date or dates from July 1, 2021, through December 31, 2021.

7. Season tickets for ballets, plays, music events, or musical theatre performances.

8. Entry to a fair, festival, or cultural event scheduled to be held on any date or dates from July 1, 2021, through

December 31, 2021.

9. Use of or access to private and membership clubs providing physical fitness facilities from July 1, 2021, through December 31, 2021.

(b) If the purchaser of a tax-exempt admission subsequently resells the admission, the purchaser shall collect tax on the full sales price of the resold admission.

(4) Retail sales. During the holiday period, no tax may be collected on the retail sale for the following:

(a) Boating and water activity supplies.

1. The first \$75 of the sales price of life jackets and coolers.

2. The first \$50 of the sales price of safety flares.

3. The first \$150 of the sales price of water skis, wakeboards, kneeboards, and recreational inflatable water tubes or floats capable of being towed.

4. The first \$300 of the sales price of paddleboards and surfboards.

5. The first \$500 of the sales price of canoes and kayaks.

6. The first \$75 of the sales price of paddles and oars.

7. The first \$25 of the sales price of snorkels, goggles, and swimming masks.

(b) Camping supplies.

1. The first \$200 of the sales price of tents.

2. The first \$50 of the sales price of sleeping bags, portable hammocks, camping stoves, and collapsible camping chairs.

3. The first \$30 of the sales price of camping lanterns and flashlights.

(c) Fishing supplies. This does not include supplies used for commercial fishing purposes.

1. The first \$75 of the sales price of rods and reels, if sold individually, or the first \$150 of the sales price if sold as a set.

2. The first \$30 of the sales price of tackle boxes or bags.

3. The first \$5 of the sale price of bait or fishing tackle, if sold individually, or the first \$10 of the sales price if multiple items are sold together.

(d) General outdoor supplies.

1. The first \$15 of the sales price of sunscreen or insect repellent.

2. The first \$100 of the sales price of sunglasses.

3. The first \$200 of the sales price of binoculars.

4. The first \$30 of the sales price of water bottles.

5. The first \$50 of the sales price of hydration packs.

6. The first \$250 of the sales price of outdoor gas or charcoal grills.

7. The first \$50 of the sales price of bicycle helmets.

8. The first \$250 of the sales price of bicycles.

(e) Sports equipment includes any item used in individual or team sports, not including clothing or footwear, selling for \$40 or less.

(5) The tax exemptions provided do not apply to sales within a theme park or an entertainment complex as defined in Section 509.013(9), F.S., within a public lodging establishment as defined in Section 509.013(4), F.S., or within an airport as defined in Section 330.27(2), F.S.

(6) Articles Normally Sold as a Unit.

(a) Articles that are normally sold as a unit must continue to be sold in that manner; they cannot be separately stated and sold as individual items in order to obtain the exemption.

(b) Example: A pair of water skis normally sells for \$300. The pair of skis cannot be split in order to sell each ski for \$150 to qualify for the exemption.

(7) Sales of Sets Containing Both Exempt and Taxable Items.

(a) When exempt items are normally sold together with taxable merchandise as a set or single unit, the sales price of the set or single unit is subject to sales tax.

(b) Example: A packaged set consisting of swim fins (which are not exempt during the holiday period) and a swim mask (which is exempt) is sold for a single price of \$30. Although the swim mask would otherwise be exempt during the holiday period, the sales price of the packaged set is subject to tax.

(8) Gift Cards.

(a) Eligible items purchased during the holiday period using a gift card will qualify for the exemption, regardless of when the gift card was purchased.

(b) Eligible items purchased after the holiday period using a gift card are taxable, even if the gift card was purchased during the holiday period.

(c) A gift card does not reduce the selling price of an item.

(9) Buy One, Get One Free or for a Reduced Price. The total price of items advertised as “buy one, get one free” or “buy one, get one for a reduced price” cannot be averaged in order for both items to qualify for the exemption.

(10) Exchanges.

(a) If a customer purchases an eligible item during the holiday period, then later exchanges the item for the same item (different size or different color), no additional tax will be due even if the exchange is made after the holiday period.

(b) If a customer purchases an eligible item during the holiday period, then later returns the item and receives credit on the purchase of a different item, the new item purchased is subject to tax.

(11) Coupons, Discounts, and Rebates. The sales price of an item includes all consideration received by the retailer for that item. The price of an item is not limited to the amount paid by a customer.

(a) Manufacturer’s coupons do not reduce the sales price of an item, because the retailer is reimbursed for the amount of any discount provided to a customer. Therefore, the amount of the reimbursement is included in the taxable sales price of an item.

(b) Store coupons, discounts, or rebates offered by the retail seller reduces the sales price of an item because it reduces the total amount received by the retail seller for the item.

(c) Rebates occur after the sale and do not affect the sales price of an item purchased.

(12) Returns. When a customer returns an item purchased during the sales tax holiday period and requests a refund or credit of tax the customer must produce a receipt or invoice showing tax was charged and paid on the original purchase of the item, or the retailer must have sufficient documentation to show tax was paid on the original purchase of the item.

(13) Rain checks. Eligible items purchased during the holiday period using a rain check will qualify for the exemption regardless of when the rain check was issued. However, issuance of a rain check during the holiday period will not qualify an eligible item for the exemption if the item is purchased after the holiday period.

(14) Layaway sales. A layaway sale is a transaction in which merchandise is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and receives the merchandise at the end of the payment period. Eligible items placed on layaway during the holiday period are tax exempt, even if final payment of the layaway is made after the holiday period. If a customer makes a final payment and takes delivery of the item during the holiday period, the eligible items are tax exempt.

(15) Remote Sales.

(a) Qualifying items purchased through a marketplace provider or from a remote seller are exempt when the order is accepted by the marketplace provider or remote seller during the sales tax holiday period for immediate shipment, even if delivery is made after the sales tax holiday period.

(b) An order is accepted by the company when action has been taken to fill the order for immediate shipment. Actions to fill an order include assigning an “order number” to a telephone order, confirming an Internet order by an email to the customer, or placing a date received on an order received by mail.

(c) An order is considered to be for immediate shipment when delayed shipment is not requested by the customer. An order is for immediate shipment even if the shipment may be delayed because of a backlog of orders or stock is currently unavailable or on back order.

(16) Shipping and Handling Charges. When separately stated shipping charges are part of the sales price of the items listed on a sales invoice or receipt, the shipping charges must be proportionately allocated to each item sold to determine the total sales price of the item. The cost of each item is divided by the total cost of all the items ordered to obtain the percentage of cost that each item bears to the total order. The amount of the shipping charge applicable to each item is calculated by multiplying the total shipping charge by the percentage of cost for each item.

(17) Service Warranties. The taxation of any charges for a service warranty contract depends on the taxability of the product being sold. If the retail sale of an item is exempt from tax, the charge for a service warranty sold with the

item is exempt.

(18) License Fees or Other Fees imposed by Panama City and Panama City Beach. Panama City and Panama City Beach impose a 1 percent merchant's license fee or tax on retailers. The merchant's license fee is included in the sales price of each item. If the fee is separately stated, it must be assigned to the sales price of each item on the invoice to determine if an item is exempt during the holiday.

(19) Repairs or Alterations to Eligible Items.

(a) Repairs to eligible items do not qualify for the exemption.

(b) Alterations to clothing or footwear do not qualify for the exemption, even though alterations may be sold, invoiced, and paid for at the same time as the item to be altered is purchased.

(20) Rentals. Rentals of eligible items do not qualify for the exemption.

Rulemaking Authority Section 45 of Chapter 2021-31, L.O.F. Law Implemented 212.05, 212.06, 212.08(2)(a), (7)(f), (7)(lll), FS, Section 45 of Chapter 2021-31, L.O.F. History-New

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 8, 2021