

Florida Department of Revenue
Tax Information Publication

TIP 06A01-21
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Sales Tax Holiday for New Energy-Efficient Products

October 5 through October 11, 2006

Florida law provides that no sales tax or discretionary sales surtax (also known as local option sales tax) will be collected on qualifying sales of **new** energy-efficient products having a sales price of **\$1,500 or less**. This exemption is effective from **12:01 a.m., October 5, 2006, through 11:59 p.m., October 11, 2006**.

A qualifying "energy-efficient product" is defined by Florida law as only a **dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator** that has been designated as meeting or exceeding the federal Energy Star Program energy-efficiency requirements and has the Energy Star label affixed to the product or product packaging. The qualifying product must be new when sold.

The sales tax exemption applies only to items purchased for **noncommercial home or personal use**, and does not apply when the product is purchased for trade, business, or resale. Purchases made using a business or company credit or debit card or check are NOT eligible for this exemption.

Example 1: A used appliance dealer sells a used late model refrigerator for \$700. The Energy Star label is still attached to the product. Since this is not a **new** appliance, the sale is subject to tax.

Example 2: A developer purchases 25 refrigerators at \$800 each and 25 dishwashers at \$500 each for use in residential homes that the developer has built. The products carry the Energy Star label and are billed on the same invoice. Since the purchase is not for noncommercial or personal use, the purchase is subject to tax.

Example 3: A purchaser buys a dishwasher for \$500, an electric range for \$600, and a window for \$300. The dishwasher and window carry the Energy Star label. All three items are billed on the same invoice. Only the dishwasher qualifies for the exemption. The electric range does not carry the Energy Star label. The electric range and window are not on the list of eligible items.

Applying the law to sales transactions

The sales price of each eligible item will determine whether that item exceeds the amount allowable for exemption, regardless of whether other items are included on the same sales invoice.

Example: A customer purchases a refrigerator, a dishwasher, and a lawn mower on one sales invoice during the exemption period. The refrigerator and dishwasher both carry the Energy Star label. The sales price of the refrigerator is \$1,400, the dishwasher is \$1,000, and the lawn mower is \$500. Both the refrigerator and dishwasher qualify for the exemption because the sales price of each qualifying product is \$1,500 or less. The lawn mower is not included in the list of eligible items and is taxable.

The total price of items advertised as "**buy one, get one free,**" or "**buy one, get one for a reduced price,**" cannot be averaged together in order for both items to qualify for the exemption.

Example: A retailer advertises dishwashers for half price when purchased with a refrigerator. A customer purchases a refrigerator for \$1,600 and a dishwasher for \$300 (normally priced at \$600). Both products carry the Energy Star label. The dishwasher will qualify for the exemption, but the refrigerator will not qualify because the sales price exceeds \$1500. In this example, the sales price of the two products may not be averaged together so that both products will qualify for the exemption.

The sale of a **gift certificate** or **gift card** is not taxable. Eligible items purchased during the exemption period using a gift certificate or gift card will still qualify for the exemption, regardless of when the gift certificate or gift card was purchased. Eligible items purchased after the exemption period using a gift certificate or gift card are **taxable** even if the gift certificate or gift card was purchased during the exemption period. A gift certificate or gift card **CANNOT** be used to reduce the selling price of an item in order to qualify for the exemption.

Example: A customer purchases an air conditioner carrying the Energy Star label during the exemption period. The sales price of the air conditioner is \$1,600. The customer has a gift card for \$150 that he uses toward payment of the purchase. The gift card does not reduce the sales price of the air conditioner and the sale does not qualify for the exemption.

When a customer purchases a qualifying item during the exemption period, then later **exchanges** the item for the same item (different model, different color, etc.), no tax will be due even if the exchange is made after the exemption period.

Example 1: A customer purchases a dishwasher carrying the Energy Star label during the exemption period. The sales price of the dishwasher is \$600 and the customer pays no sales tax on the purchase. After the exemption period, the customer exchanges the dishwasher for a second dishwasher that has the Energy Star label with a sales price of \$600. The second dishwasher is a different brand and model number. The exchange will qualify for the exemption because it is an exchange of a qualifying item for the same item (i.e., same appliance type and same price).

Example 2: Same facts as above, but the customer exchanges the dishwasher for a refrigerator that has the Energy Star label with a sales price of \$600. This exchange will not qualify for exemption because the customer has not exchanged a qualifying item for the same item.

When a customer uses a **store credit** during the exemption period to purchase qualified tax-exempt items, the

purchase will be exempt from sales tax. When a customer receives a store credit during the exemption period and uses the credit after the tax-exempt period has expired, the appropriate sales tax will apply to the full sales price of the newly purchased item.

A customer who pays sales tax to a retailer on a qualifying item when no tax is due must secure a **refund** of the tax from the retailer and not from the Department of Revenue.

Manufacturer's coupons do not reduce the sales price of an item. Therefore, a manufacturer's coupon cannot be used to reduce the selling price of a qualifying item in order for the item to qualify for the exemption.

Example: A refrigerator that carries the Energy Star label sells for \$1,600. The customer has a \$100 manufacturer's coupon good for the purchase of the refrigerator. The manufacturer's coupon does not reduce the sales price of the refrigerator. Tax is due on \$1,600, even though the customer only pays the retailer \$1,500 for the refrigerator.

Store coupons and discounts reduce the sales price of an item. Therefore, a store coupon or discount can be used to reduce the sales price of a qualifying item to the qualifying amount in order to qualify for the exemption.

Example: A clothes washer that carries the Energy Star label sells for \$1,600. The store offers a discount of 10% on the clothes washer, so that the customer pays \$1,440 for the clothes washer. The clothes washer would be eligible for the exemption because the store discount reduces the sales price below \$1,500.

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

Example: A customer purchases an air conditioner carrying the Energy Star label for \$1,600 during the exemption period. The air conditioner comes with a manufacturer's rebate of \$150. The rebate does not reduce the sales price of the air conditioner to the allowable amount and the exemption would not apply.

Eligible items purchased during the exemption 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 exemption period will not qualify an eligible item for the exemption if the item is actually purchased after the exemption period.

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. For purposes of this exemption, qualified items will be eligible for the exemption if a retailer and a customer enter into a contract for a layaway sale during the exemption period, the customer makes the usual deposit in accordance with the retailer's layaway policy, and the merchandise is segregated from the retailer's inventory. Also, if the final payment on a layaway order is made and the merchandise is given to the customer during the exemption period, that sale of qualified items will be eligible for the exemption, even when the qualified items were placed on layaway before the exemption period.

Example 1: A clothes washer with a sales price of \$1,100 is placed on layaway during the exemption period. The clothes washer carries the Energy Star label. The customer makes the usual deposit in accordance with the retailer's

layaway policy, and the clothes washer is segregated from the retailer's inventory. The sale of the clothes washer will be eligible for the exemption.

Example 2: Same facts as example 1, above, except that the clothes washer is placed on layaway prior to the exemption period. The customer makes the final payment for the layaway during the exemption period and receives the clothes washer. The sale of the clothes washer will be eligible for the exemption.

For purposes of this exemption, eligible items purchased by **mail order** (including transactions made over the Internet) will receive the exemption if the order is accepted by the mail-order company during the exemption period for immediate shipment. When the acceptance of the order by the mail-order company occurs during the exemption period, the exemption will apply even if delivery is made after the exemption period.

An order is accepted by the mail-order company when the mail-order company has taken an action to fill the order for immediate shipment. Actions to fill an order include placing an "in-date" stamp on a mail-order or assigning an "order number" to a telephone order.

An order is considered to be for immediate shipment when delayed shipment is not requested by the customer. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the company.

Shipping charges are included as part of the sales price of an eligible item, if the customer has no option to avoid having the item shipped, whether or not the shipping charges are separately stated. In such cases, the shipping charges become a part of the sales price and the qualifying item will be eligible for exemption only if the sales price of the item combined with the shipping charges is \$1,500 or less. If the customer has the option of whether to have the item shipped and the shipping charges are separately stated, then the shipping charges are not included in the sales price.

If multiple items are shipped on a single invoice, to determine if any items qualify for the exemption, the shipping charge must be proportionately allocated to each item ordered and separately identified on the invoice.

Example 1: An air conditioner that carries the Energy Star label sells for \$1,450. A customer orders the air conditioner and is charged \$75 for shipping and handling. The customer has no option whether to have the air conditioner shipped. This sale will not qualify for the exemption because the shipping charges are included as part of the sales price and the sales price exceeds \$1,500.

Example 2: Same facts as Example 1, except that the air conditioner sells for \$1,405. In this case, the sale will qualify for exemption. The shipping charges are included in the sales price, but the addition of the shipping charges does not cause the sales price to exceed the amount allowable for the exemption.

Example 3: Same facts as Example 1, except that the customer has the option whether to have the air conditioner shipped. In this case, the shipping charges will not be included in the sales price if the shipping charges are separately stated on the customer's invoice. If the shipping charges are separately stated on the customer's invoice,

the sale would qualify for the exemption.

Example 4: A customer orders a dishwasher and a refrigerator on the same invoice. Both items will be shipped to the customer, and the customer has no option whether to have the items shipped. The sales price of the dishwasher is \$500 and the sales price of the refrigerator is \$1,450. The total shipping charge for both items is \$150.

To determine whether either item is eligible for the exemption, the shipping charge must be proportionately allocated to each item and separately identified on the invoice. In this example, the invoice must contain a shipping charge of \$38.46 [$\$500/\$1,950$ (cost of dishwasher/cost of both items) = 25.64%, multiplied by \$150 (cost of shipping)] for the dishwasher and a shipping charge of \$111.54 for the refrigerator. Therefore, the total sales price of the dishwasher is \$538.46 and the total sales price of the refrigerator is \$1,561.54. The dishwasher would qualify for the exemption and the refrigerator would not because it exceeds \$1500.

When a qualifying energy-efficient product does not become a part of realty and remains tangible personal property when installed, any separately itemized charge for the installation of the product is a part of the sales price of the product and is exempt when the total sales price of the product is \$1,500 or less.

Example: A refrigerator, which carries the Energy Star label, is purchased for \$1,300 and an installation charge of \$150 is separately itemized on the seller's invoice. The refrigerator will remain tangible personal property when installed by the seller. The purchase would qualify for the exemption because the sales price of the refrigerator (\$1,300 plus \$150 in installation charges) is less than \$1,500.

The taxability of a qualifying energy-efficient product that will be installed by the seller or by a contractor is based on whether the sale of the qualifying product is a retail sale to a consumer for noncommercial home and personal use or a sale to the contractor to be used in the performance of a real property improvement contract.

Real Property Improvement Contracts

When a contractor enters into any type of **real property improvement contract**, except a retail sale plus installation contract, under which the contractor agrees to furnish the materials and supplies and necessary services in exchange for an agreed price, the contractor is the ultimate consumer of any energy-efficient product used in performing the contract. Even though the purchaser has paid the contractor an agreed price for the improvement to realty, the contractor remains the ultimate consumer of the energy-efficient product. Therefore, the product is purchased for commercial use and does not qualify for the exemption.

Example: A purchaser enters into a contract with an air conditioner contractor to furnish and install an air conditioner that will become a part of realty for \$1,450. The air conditioner carries the Energy Star label. The purchase of the air conditioner would not be considered a retail sale for noncommercial use because the contractor is considered to be the ultimate consumer of the air conditioner in the performance of the contract. The purchase of the air conditioner by the contractor to be installed as real property for the purchaser **does not qualify** for exemption.

Retail Sale Plus Installation Contracts

When a contractor enters into a **retail sale plus installation contract**, the contractor agrees to sell an item and agrees to install the item as an improvement to real property, the contractor is selling tangible personal property. Under such contracts, every item or piece of material (e.g., screws, caulk, tape, etc.) to be used in the installation and the installation charge is required to be separately itemized and priced on the invoice to the purchaser. The purchaser must assume title and risk of loss of the items when they are delivered to the purchaser.

When a qualifying energy-efficient product is sold by a contractor under a retail sale plus installation contract to a purchaser for noncommercial home and personal use, the sale of the product with a sales price of \$1,500 or less is exempt.

Example: A contractor enters into a retail sale plus installation contract with a purchaser to furnish an air conditioner, plus all materials necessary to install the air conditioner as an improvement to realty at the purchaser's residence. The air conditioner carries the Energy Star label. The sales price to the consumer for the air conditioning unit is \$1,250, the charge for the separately itemized materials total \$250, and the installation charge is \$300. The total charge to the consumer is \$1,800. Because the sale of the air conditioner is the sale of a qualifying energy-efficient product to a purchaser for noncommercial or personal use and the sale is less than \$1,500, the sale of the air conditioner is exempt. The sale of the separately itemized materials is subject to tax. The separately itemized charge for installation is not subject to tax.

Rental of any of the items specified in this publication does not qualify for an exemption.

Repairs to qualifying items do not qualify for the exemption.

The taxation of any charges for a **service warranty** contract will depend upon the taxability of the product being sold. For example: a refrigerator carrying the Energy Star label is purchased for \$1,495 and a \$100 charge is made for a service warranty contract at the time of sale and is separately stated on the seller's invoice. The purchase of the refrigerator would qualify for the exemption because the sales price of the refrigerator is less than \$1500. The \$100 charged for the service warranty contract is also exempt because the retail sale of the refrigerator is exempt from tax.

For Bay County Dealers Only

Panama City and Panama City Beach impose upon retailers a merchant's license fee or similar gross receipts tax or fee, which may be passed on to the customer. The merchant's license fee is included in the sales price of each item whether or not the fee is separately stated on the invoice.

Example: A refrigerator that has the Energy Star label sells for \$1,495.00. The separately stated 1% gross receipts fee for this item is \$14.95. Since the gross receipts fee is part of the sales price of the item (\$1,509.95), the cost of the refrigerator exceeds the allowable cost threshold and, therefore, will not qualify for the tax exemption.

No special record keeping or reporting is necessary.

Dealers are not required to obtain an exemption certificate on sales of energy-efficient products during the exemption

period. However, the dealer's records must clearly identify the type of product sold, the date on which the product was sold, the sales price of each, and any sales tax charged.

Sales of eligible items that are sold tax exempt from October 5, 2006 through October 11, 2006, should be reported as exempt sales on the appropriate sales tax return for that period.

Consolidated Accounts

If you are a consolidated filer, and one or more of your active locations have a Department of Revenue Business Classification and an assigned Standard Industrial Code to indicate that you sell any of these qualifying products, your consolidated account will receive ONE copy of this TIP. This will enable you to communicate this information directly with each of your store locations. Please make certain you notify ALL of your individual store locations that may sell any of the eligible products regarding this Energy Sales Tax Holiday and the specific provisions contained in this TIP. Copies of this information are available on our Internet site at www.myflorida.com/dor.

Reference: Ch. 2006-230, L.O.F.

For Information and Forms

Information and forms are available on our Internet site at www.myflorida.com/dor

To speak with a Department of Revenue representative, call Taxpayer Services, Monday through Friday, 8 a.m. to 7 p.m., ET, at 800-352-3671 or 850-488-6800.

Persons with hearing or speech impairments may call the TDD line at 800-367-8331 or 850-922-1115.

For a written reply to tax questions, write:

Taxpayer Services
Florida Department of Revenue
1379 Blountstown Hwy
Tallahassee FL 32304-2716

To receive forms by mail:

* Order multiple copies of forms from our Internet site at www.myflorida.com/dor/forms or

* Fax form requests to the DOR Distribution Center at 850-922-2208 or

* Mail form requests to:

Distribution Center
Florida Department of Revenue

168A Blountstown Hwy
Tallahassee FL 32304-2702

Department of Revenue service centers host educational seminars about Florida's taxes. To get a schedule of upcoming seminars or to register for one,

* Visit us online at www.myflorida.com/dor or

* Call the service center nearest you.

Florida Department of Revenue Service Centers

Alachua Service Center
14107 US Highway 441 Ste 100
Alachua FL 32615-6390
386-418-4444 (ET)

Clearwater Service Center
Arbor Shoreline Office Park
19337 US Highway 19 N Ste 200
Clearwater FL 33764-3149
727-538-7400 (ET)

Cocoa Service Center
2428 Clearlake Rd Bldg M
Cocoa FL 32922-5731
321-504-0950 (ET)

Coral Springs Service Center
Florida Sunrise Tower
3111 N University Dr Ste 501
Coral Springs FL 33065-5090
954-346-3000 (ET)

Daytona Beach Service Center
1821 Business Park Blvd
Daytona Beach FL 32114-1230
386-274-6600 (ET)

Fort Myers Service Center
2295 Victoria Ave Ste 270
Fort Myers FL 33901-3871

239-338-2400 (ET)

Fort Pierce Service Center
Benton Building
337 N US Highway 1 Ste 207-B
Fort Pierce FL 34950-4255
772-429-2900 (ET)

Hollywood Service Center
Taft Office Complex
6565 Taft St Ste 300
Hollywood FL 33024-4044
954-967-1000 (ET)

Jacksonville Service Center
921 N Davis St A250
Jacksonville FL 32209-6829
904-359-6070 (ET)

Key West Service Center
3118 Flagler Ave
Key West FL 33040-4602
305-292-6725 (ET)

Lake City Service Center
1401 W US Highway 90 Ste 100
Lake City FL 32055-6123
386-758-0420 (ET)

Lakeland Service Center
230 S Florida Ave Ste 101
Lakeland FL 33801-4625
863-499-2260 (ET)

Leesburg Service Center
1415 S 14th St Ste 103
Leesburg FL 34748-6686
352-315-4470 (ET)

Maitland Service Center
Ste 160
2301 Maitland Center Parkway

Maitland FL 32751-4192
407-475-1200 (ET)

Marianna Service Center
4230 Lafayette St Ste D
Marianna FL 32446-8231
850-482-9518 (CT)

Miami Service Center
8175 NW 12th St Ste 119
Miami FL 33126-1828
305-470-5001 (ET)

Naples Service Center
3073 Horseshoe Dr S Ste 110
Naples FL 34104-6145
239-434-4858 (ET)

Orlando Service Center
AmSouth Bank Building
5401 S Kirkman Rd 5th Floor
Orlando FL 32819-7911
407-903-7350 (ET)

Panama City Service Center
703 W 15th St Ste A
Panama City FL 32401-2238
850-872-4165 (CT)

Pensacola Service Center
3670C N L St
Pensacola FL 32505-5217
850-595-5170 (CT)

Port Richey Service Center
6709 Ridge Rd Ste 300
Port Richey FL 34668-6842
727-841-4407 (ET)

Sarasota Service Center
Sarasota Main Plaza
1991 Main St Ste 240

Sarasota FL 34236-5940
941-361-6001 (ET)

Tallahassee Service Center
2410 Allen Rd
Tallahassee FL 32312-2603
850-488-9719 (ET)

Tampa Service Center
Ste 100
6302 E Martin Luther King Blvd
Tampa FL 33619-1166
813-744-6344 (ET)

West Palm Beach Service Center
2468 Metrocentre Blvd
West Palm Beach FL 33407-3105
561-640-2800 (ET)

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