



**QUESTION:** Whether the sale of an admission and a gift card, sold as a bundle, qualifies as an exempt sale of a “vacation package” pursuant to s. 212.04, F.S.?

**ANSWER:** Based on the facts provided, as a travel agent, Taxpayer’s sale of an admission and Gift Card, sold as a bundle, qualifies as an exempt sale of a “vacation package” pursuant to s. 212.04, F.S.

July 8, 2022

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Re: Technical Assistance Advisement – TAA #: 22A-014  
Florida Sales and Use Tax  
XXXX (“Taxpayer”)  
Sections 212.02, 212.04, and 559.927, Florida Statutes (F.S.)  
Rule 12A-1.005, Florida Administrative Code (F.A.C.)  
BP #: XXXX

Dear Ms. XXXX,

This letter is in response to your request dated October 25, 2021, and received in this office on October 25, 2021, for issuance of a Technical Assistance Advisement (“TAA”) pursuant to Section 213.22, F.S., and Rule Chapter 12-11, F.A.C., concerning vacation packages. An examination of your request has established you complied with the statutory and regulatory requirements for issuance of a TAA. Therefore, the Department is hereby granting your request for a TAA.

**Requested Advisement**

Whether the sale of an admission and a gift card, sold as a bundle, qualifies as an exempt sale of a “vacation package” pursuant to s. 212.04, F.S.?

### **Stated Facts**

Your letter states:

Taxpayer was granted a “Seller of Travel Registration License” with the Florida Department of Agriculture and Consumer Services on March 23, 2022. Taxpayer intends to sell bundled transactions inclusive of both an admission plus a gift card. Attached to this TAA request, in Exhibit A, was a sample transaction for advisement thereon. This transaction included two 1-day Disney tickets plus two Restaurant.com gift cards (“Gift card”). When a customer purchases the bundled transaction in Exhibit A, they purchase the Disney tickets and Gift Card for a discounted value. The two 1-day Disney tickets are worth \$200 at face value and the two Gift Cards are worth \$50 at face value. The bundled transaction sold by Taxpayer would be for a lump sum price that is less than \$250.

When Taxpayer purchases the Disney ticket and Gift Card, Taxpayer pays sales tax on the Disney ticket but does not pay sales tax on Gift Card.

### **Law and Discussion**

Unless a specific exemption applies, s. 212.04, F.S., provides that sales tax must be collected by admission providers on the sales price or amount received from the sale of admissions<sup>[1]</sup>. Section 212.04(1)(c), F.S., provides that tax-exempt sales for resale do not apply to sales of admissions. Section 212.04(1)(d), F.S., governs certain types of vacation packages sold for a lump sum price by a travel agent. It provides:

(1)(d) No additional tax is due on components incorporated as part of a package sold by a travel agent if the package includes two or more components such as admissions, transient rentals, transportation, or meals; if all of the components were purchased by the travel agent from other parties and any sales tax due on such purchases was paid; and if there is no separate itemization of the admission, transient rental, transportation, meal, or other components in the sales price of the package. This paragraph does not apply if the actual price charged for a component by the dealer to a travel agent is less than the price charged to unrelated parties under normal industry practices and the dealer, and

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<sup>[1]</sup> The term “admissions” means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities, except physical fitness facilities owned or operated by any hospital licensed under chapter 395. See s. 212.02(1), F.S.

the travel agent are members of the same controlled group of corporations for federal income tax purposes.

Rule 12A-1.005(6), F.A.C., provides, in part, the following:

(6) Sales of vacation packages.

(a) For purposes of this subsection, a “vacation package” means a bundle consisting of two or more components, such as admissions, transient rentals, transportation, or meals. Coupon books, maps, or other incidental items, that are provided free of charge as part of a vacation package are not considered “components” for purposes of this subsection.

(b) Tax is due on the purchase of taxable components of a vacation package at the time of purchase. No additional tax is due on the components that are incorporated into a vacation package and sold by a travel agent, when all of the following conditions are met:

1. The vacation package sold by the travel agent includes two or more components;
2. There is no separate itemization of the sales price of the package for the admission, transient rental, transportation, meal, or any other component of the vacation package; and,
3. All components of the vacation package were purchased by the travel agent from other parties and any sales tax due on such purchases was paid at the time of purchase.

Section 559.927, F.S., provides related definitions and provides in part, the following:

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(3) “Contract” means any contract, certificate, reservation request or confirmation form, membership application or use agreement, license, or reservation confirmation whereby the purchaser obtains the right to benefits and privileges of the prearranged travel or tourist service, or to a vacation certificate, or any such other document, writing, or form committing the seller of travel to provide travel services or privileges pertaining to reservations, tour or travel arrangements, and accommodations.

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(6) “Offer for sale” means direct or indirect representation, claim, or statement or making an offer or undertaking, by any means or method, to arrange for, provide, or acquire travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, or other medium of transportation, or hotel and motel accommodations or sightseeing tours by a seller of travel who maintains a business location in Florida or who offers to sell to persons in Florida.

(7) “Prearranged travel or tourist-related services” includes, but is not limited to, car rentals, lodging, transfers, and all other such services that are reasonably related to air, sea, rail, motor coach, or other medium of transportation, or accommodations for which a purchaser receives a premium or contracts or pays before or after departure. This term also includes services for which a purchaser, whose legal residence is outside the United States, contracts or pays before departure, and any arrangement by which a purchaser prepays for, receives a reservation or any other commitment to provide services before

departure for, or otherwise arranges for travel directly to a terrorist state and which originates in Florida.

(8) "Purchaser" means the purchaser of, or person otherwise entitled to receive, prearranged travel or tourist-related services for a fee or commission, or who has acquired a vacation certificate for personal use.

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(11) "Seller of travel" means any resident or nonresident person, firm, corporation, or business entity that offers, directly or indirectly, prearranged travel or tourist-related services for individuals or groups, including, but not limited to, vacation packages, or vacation certificates in exchange for a fee, commission, or other valuable consideration....

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(14) "Vacation certificate" means any arrangement, plan, program, vacation package, or advance travel purchase that promotes, discusses, or discloses a destination or itinerary or type of travel, whereby a purchaser is entitled to the use of travel, accommodations, or facilities for any number of days, whether certain or uncertain, during the period in which the certificate can be exercised, and no specific date or dates for its use are designated. A vacation certificate does not include prearranged travel or tourist-related services when a seller of travel remits full payment for the cost of such services to the provider or supplier within 10 business days of the purchaser's initial payment to the seller of travel. The term does not include travel if exact travel dates are selected, guaranteed, and paid for at the time of the purchase.

Section 212.04(1)(d), F.S., and Rule 12A-1.005(6), F.A.C., specifically include admissions and meals as components that must be incorporated into an exempt vacation package. The use of gift cards for meals, unless a price is separately stated, has not by itself been a factor to disqualify a particular component. At issue here, is whether the use of gift cards is an incidental item, which would preclude the gift card from being a qualifying component. See Rule 12A-1.005(6), F.A.C., regarding coupon books, maps, and other incidental items provided free of charge as part of a package. For purposes of this TAA, it is assumed that Gift Cards are not incidental items.

As to gift cards, Rule 12A-1.089, F.A.C., provides that sales tax is not due when they are purchased; however, sales tax is due on the full sales price when used. So long as the sale of the admission and gift card qualify as prearranged travel, tourist-related services, or tour-guide services for purposes of s. 559.927(7), F.S., the use of gift cards at a restaurant may be considered a component.

### **Conclusion**

Based on the facts provided, as a travel agent, Taxpayer's sale of an admission and Gift Card, sold as a bundle, qualifies as an exempt sale of a "vacation package" pursuant to s. 212.04, F.S.

This response constitutes a Technical Assistance Advisement under Section 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 Section 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 Section 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 Technical Assistance Advisement, 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.

Best Regards,

*Xiaoxi Miao*

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

cc: XXXX  
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