

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
CREATING RULES 12A-1.113, 12A-1.114, and 12A-1.115

12A-1.113 Exemption for Children’s Diapers; Baby and Toddler Clothing, Apparel, and Shoes During the Period of July 1, 2022, through June 30, 2023.

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

(a)1. “Clothing” and “apparel” means any article of clothing or wearing apparel intended to be worn on or about the human body.

2. “Clothing” and “apparel” do not include watches, watchbands, jewelry, umbrellas, and handkerchiefs.

(b) "Exemption period" means the period from July 1, 2022, through June 30, 2023.

(c) “Remote sale” means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this emergency rule, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(2) During the exemption period, tax is not due on the retail sale of the following:

(a) Single-use and reusable children’s diapers, including those used for toilet training, and diaper inserts.

(b) Baby and toddler clothing, apparel, and shoes, primarily intended for children age 5 or younger.

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

(4) Gift Cards.

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

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

(5) Exchanges.

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

(b) If a customer purchases an eligible item during the exemption period, then later returns the item and receives credit towards the purchase of an item that did not qualify for the exemption, the new item purchased is subject to tax.

(6) Returns. When a customer returns an item purchased during the sales tax exemption 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.

(7) Rain Checks. 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 purchased after the exemption period.

(8) 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 exemption period are tax exempt, even if final payment of the layaway is made after the exemption period. If a customer makes a final payment and takes delivery of the item during the exemption period, the eligible items are tax exempt.

(9) Remote Sales.

(a) Eligible 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 exemption period for immediate shipment, even if delivery is made after the sales tax exemption 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.

(10) Shipping and Handling Charges. When separately stated shipping charges are part of the sales price, and both taxable and exempt items are listed on a sales invoice or receipt, the shipping charges must be proportionately allocated to the charge for each item to determine the total sales price of the item. The charge for each item is divided by the total charge of all the items ordered to obtain the percentage of charge 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. If an item is exempt, the associated shipping charge is also exempt.

(11) License Fees or Other Fees Imposed by Panama City and Panama City Beach. Panama City and Panama City Beach impose a 1% merchant's license fee or tax on retailers. The merchant's license fee is included in the sales price of each item. When the fee is separately stated, and both taxable and exempt items are listed on a sales invoice or receipt, the merchant's fee must be allocated to the charge for each item on the invoice. If the item is exempt, the associated merchant's license fee is exempt.

(12) Alterations to Eligible Items. 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.

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

(14) List of Items of Clothing and Their Taxable Status During the Exemption Period. The following is a list of items of clothing and their taxable status during the exemption period. This is not an exhaustive list. T = Taxable, E = Exempt.

A

T Accessories (generally)

E Barrettes and bobby pins

E Belt buckles

E Bow ties

E Hairnets, bows, clips, and hairbands

T Handbags

T Handkerchiefs

T Jewelry

T Key cases

E Neckwear

E Ponytail holders

E Scarves

E Ties

T Wallets

T Watchbands

T Watches

E Aerobic and fitness clothing

E Aprons and clothing shields

T Athletic gloves

T Athletic pads

E Athletic supporters

B

E Baby clothes

T Backpacks and bookbags

E Bandanas

E Baseball cleats

E Bathing suits, caps, and cover-ups

E Belts

E Bibs

E Bicycle helmets (youth)**

E Blouses

E Boots (except ski or fishing boots)

E Bowling shoes

E Braces and supports worn to correct or alleviate a physical incapacity or injury*

C

T _____ Chest protectors

E _____ Choir and altar clothing*

E _____ Cleated and spiked shoes

T _____ Cloth, lace, knitting yarns, and other fabrics

T _____ Clothing repair items, such as thread, buttons, tapes, iron-on patches, or zippers

E _____ Coats

T _____ Coin purses

E _____ Costumes

E _____ Coveralls

T _____ Crib blankets

D-E

T _____ Diaper bags

E _____ Diapers, diaper inserts, diapers for toilet training

T _____ Diving suits (wet and dry)

E _____ Dresses

T _____ Duffel bags

T _____ Elbow pads

F

T _____ Fanny packs

T _____ Fins

T _____ Fishing boots (waders)

E _____ Fishing vests (nonflotation)

T _____ Football pads

E _____ Formal clothing

G

T Garment bags

T Gloves (generally)

T Baseball

T Batting

T Bicycle

E Dress

E Garden

T Golf

T Hockey

E Leather

T Rubber

T Surgical

T Tennis

T Goggles (except prescription*)

E Graduation caps and gowns

E Gym suits and uniforms

H

T Hard hats

E Hats and caps

T Helmets (bicycle**, baseball, football, hockey, motorcycle, sports)

E Hosiery and pantyhose

E Hunting vests

I-J

T Ice skates

T In-line skates

E Jackets

E Jeans

K

T Key chains

T Knee pads

L

E Leggings, tights, and leg warmers

E Leotards

T Life jackets and vests

T Luggage

M-P

E Martial arts attire

E Overshoes and rubber shoes

T Pads (football, hockey, soccer, elbow, knee, shoulder)

T Paint or dust masks

E Pants

T Patterns

T Protective masks (athletic)

T Purses

R

E Raincoats, rain hats, and ponchos

E Receiving blankets

E Religious clothing*

T Repair of wearing apparel

E Robes

T Roller blades

T Roller skates

S

E Safety clothing

T Safety glasses (except prescription*)

E Safety shoes

E Scout uniforms

E Shawls and wraps

T Shin guards and padding

E Shirts

E Shoe inserts and insoles

E Shoes (including athletic)

E Shoulder pads (e.g., dresses, jackets)

T Shoulder pads (e.g., football, hockey)

E Shorts

E Ski boots (snow)

T Ski vests (water)

E Ski suits (snow)

T Skin diving suits

E Skirts

E Sleepwear (nightgowns and pajamas)

E Slippers

E Slips

E Socks

T Suitcases

E Suits, slacks, and jackets

T Sunglasses (except prescription*)

E Suspenders

E Sweatbands

E Sweaters

T Swimming masks

E Swimsuits and trunks

T

E Ties (neckties, bow ties)

E Tuxedos

U

T Umbrellas

E Underclothes

E Uniforms (work, school, and athletic - excluding pads)

V-W

E Vests

T Wigs

* These items are always exempt as religious, prescription, prosthetic, or orthopedic items.

** Bicycle helmets marketed for use by youth are always exempt from sales tax.

Rulemaking Authority 213.06(1) FS. Law Implemented ss. 50, 51, Ch. 2022-97, L.O.F. History-New .

12A-1.114 Exemption for Impact-Resistant Windows, Impact-Resistant Doors, and Impact-Resistant Garage Doors During the Period of July 1, 2022, through June 30, 2024.

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

(a) "Exemption period" means the period from July 1, 2022, through June 30, 2024.

(b) “Impact-resistant window,” “impact-resistant door,” and “impact-resistant garage door” means a window, door, or garage door labeled as impact resistant or has an impact-resistance rating.

(c) “Remote sale” means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this emergency rule, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(2) During the exemption period, tax is not due on the retail sale of the following:

(a) Impact-resistant windows

(b) Impact-resistant doors

(c) Impact-resistant garage doors

(3) Gift Cards.

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

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

(4) Exchanges.

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

(b) If a customer purchases an eligible item during the exemption period, then later returns the item and receives credit towards the purchase of an item that did not qualify for the exemption, the new item purchased is subject to tax.

(5) Returns. When a customer returns an item purchased during the sales tax exemption 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.

(6) Rain checks. 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 purchased after the exemption period.

(7) Remote Sales.

(a) Eligible 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 exemption period for immediate shipment, even if delivery is made after the sales tax exemption 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.

(8) Shipping and Handling Charges. When separately stated shipping charges are part of the sales price, and both taxable and exempt items are listed on a sales invoice or receipt, the shipping charges must be proportionately allocated to the charge for each item to determine the total sales price of the item. The charge for each item is divided by the total charge of all the items ordered to obtain the percentage of charge 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. If an item is exempt, the associated shipping charge is also exempt.

(9) 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.

(10) License Fees or Other Fees Imposed by Panama City and Panama City Beach. Panama City and Panama City Beach impose a 1% merchant’s license fee or tax on retailers. The merchant’s license fee is included in the sales price of each item. When the fee is separately stated, and both taxable and exempt items are listed on a sales invoice or receipt, the merchant’s fee must be allocated to the charge for each item on the invoice. If the item is exempt, the associated merchant’s license fee is exempt.

Rulemaking Authority 213.06(1) FS. Law Implemented Section 52, Chapter 2022-97, L.O.F. History-New _____.

12A-1.115 Exemption for ENERGY STAR Appliances During the Period of July 1, 2022, through June 30, 2023.

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

(a) "ENERGY STAR" means a product that is designated by the US Environmental Protection Agency and the US Department of Energy as meeting or exceeding each agency's requirements under the ENERGY STAR program and is affixed with an ENERGY STAR label.

(b) "Exemption period" means the period from July 1, 2022, through June 30, 2023.

(c) "Remote sale" means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this emergency rule, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(2) During the exemption period, tax is not due on the retail sale of new ENERGY STAR appliances for noncommercial use.

(a) The following appliances are eligible for this exemption:

1. A washing machine selling for \$1,500 or less.

2. A clothes dryer selling for \$1,500 or less.

3. A water heater selling for \$1,500 or less.

4. A refrigerator or combination refrigerator/freezer selling for \$3,000 or less.

(b) The sales tax exemption applies only to eligible items purchased for noncommercial use and does not apply when the product is purchased for trade, business, or resale.

(3) Gift Cards.

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

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

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

(4) Buy One, Get One for a Reduced Price. The total price of items advertised as "buy one, get one for a

reduced price” cannot be averaged in order for both items to qualify for the exemption.

(5) Exchanges.

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

(b) If a customer purchases an eligible item during the exemption period, then later returns the item and receives credit towards the purchase of an item that did not qualify for the exemption, the new item purchased is subject to tax.

(6) 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.

(7) Returns. When a customer returns an item purchased during the sales tax exemption 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.

(8) Rain Checks. 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 purchased after the exemption period.

(9) 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 exemption period are tax exempt, even if final payment of the layaway is made after the exemption period. If a customer makes a final payment and takes delivery of the item during the exemption period, the eligible items are tax exempt.

(10) Remote Sales.

(a) Eligible 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 exemption period for immediate shipment, even if delivery is made after the sales tax exemption 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.

(11) Shipping and Handling Charges. When separately stated shipping charges are part of the sales price, and both taxable and exempt items are listed on a sales invoice or receipt, the shipping charges must be proportionately allocated to the charge for each item to determine the total sales price of the item. The charge for each item is divided by the total charge of all the items ordered to obtain the percentage of charge 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. If the item sold is exempt, the associated shipping charge is also exempt.

(12) 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.

(13) License Fees or Other Fees Imposed by Panama City and Panama City Beach. Panama City and Panama City Beach impose a 1% merchant's license fee or tax on retailers. The merchant's license fee is included in the sales price of each item. When the fee is separately stated, and both taxable and exempt items are listed on a sales invoice or receipt, the merchant's fee must be allocated to the charge for each item on the invoice. If the item is exempt, the associated merchant's license fee is exempt.

(14) Installation Charges. When an eligible ENERGY STAR appliance does not become a part of real property 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 eligible ENERGY

STAR appliance does not exceed the applicable threshold.

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

Rulemaking Authority 213.06(1) FS. Law Implemented s. 49, Ch. 2022-97, L.O.F. History-New _____.