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THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER22-3 Sales Tax Holiday for Disaster Preparedness Supplies During the Period of May 28, 2022, through June 10, 2022.

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

(a) "Airport" means a facility as defined in s. 330.27(2), F.S.

(b) "Holiday period" means the period from May 28, 2022, through June 10, 2022.

(c) "Public lodging establishment" means a facility as defined in s. 509.013(4), F.S.

(d) "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 paragraph, 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.

(e) "Theme park or entertainment complex" means a facility as defined in s. 509.013(9), F.S.

(2) During the holiday period, tax is not due on the retail sale of the following items related to disaster preparedness:

(a) A portable self-powered light source, such as candles, flashlights, or lanterns, selling for \$40 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting, such as visqueen, plastic sheeting, or plastic drop cloths, selling for \$100 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit, such as bungee cords or ratchet straps, selling for \$100 or less.

(e) A gas or diesel fuel tank, including LP gas and kerosene containers, selling for \$50 or less.

(f) A package of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$50 or less.

(g) A nonelectric food storage cooler selling for \$60 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$1,000 or less.

(i) Reusable ice selling for \$20 or less.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.: 12AER22-3  
RULE TITLE: Sales Tax Holiday for Disaster Preparedness Supplies During the Period of May 28, 2022, through June 10, 2022

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 44 of Chapter 2022-97, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the sales tax holiday for disaster preparedness supplies. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the sales tax holiday.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 44 of Chapter 2022-97, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of these provisions.

SUMMARY: During the period of May 28, 2022, through June 10, 2022, tax is not due on the retail sale of tangible personal property used for disaster preparation.

(j) A portable power bank selling for \$60 or less.

(k) A smoke detector or smoke alarm selling for \$70 or less.

(l) A fire extinguisher selling for \$70 or less.

(m) A carbon monoxide detector selling for \$70 or less.

(n) Supplies necessary for the evacuation of household pets. For purposes of this paragraph, the term “necessary supplies” means the noncommercial purchase of the following:

1. Portable kennels or pet carriers selling for \$100 or less per item.

2. Bags of dry pet food weighing 15 pounds or less and selling for \$30 or less per item.

3. Cans or pouches of wet pet food selling for \$2 or less per can or pouch or the equivalent if sold in a box or case.

4. Manual can openers selling for \$15 or less per item.

5. Leashes, collars, and muzzles selling for \$20 or less per item.

6. Collapsible or travel-sized food or water bowls selling for \$15 or less per item.

7. Cat litter weighing 25 pounds or less and selling for \$25 or less per item.

8. Cat litter pans selling for \$15 or less per item.

9. Pet waste disposal bags selling for \$15 or less per package.

10. Pet pads selling for \$20 or less per box or package.

11. Hamster or rabbit substrate selling for \$15 or less per package.

12. Pet beds selling for \$40 or less per item.

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

(4) 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 1: A multi-battery package sells for \$25. The package contains an assortment of AA, C, and D cell batteries. The battery package qualifies for the tax exemption since the sales price of the package containing eligible items is less than \$50.

(c) Example 2: A ground tie-down kit with four tie-downs and related accessories sells for \$125. The kit cannot be sold as four different packages to qualify for the exemption.

(5) 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: Four AA rechargeable batteries are sold in a package that includes a battery charger for \$35. Although the batteries would qualify for the exemption if sold separately during the sales tax holiday period, the battery charger does not qualify. The full sales price of \$35 is taxable.

(6) 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 sales price of an item.

(7) 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.

(8) Exchanges.

(a) If a customer purchases an eligible item during the holiday 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 holiday period.

(b) If a customer purchases an eligible item during the holiday 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.

(9) 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.

(d)1. Example 1: A customer buys an \$1,100 generator. The retailer offers a 10% discount. After applying the 10% discount, the final amount received by the retailer for the generator (the sales price) is \$990. The generator is exempt (since it is less than \$1,000).

2. Example 2: A customer buys a \$55 multi-pack battery package. The manufacturer offers a \$5 instant rebate redeemed when the batteries are sold. Although the purchaser pays \$50, the retailer’s sales price remains at \$55 because the retailer will receive a total of \$55 for the item: \$50 from the purchaser and

\$5 from the manufacturer. The battery package does not qualify for the exemption (since it is more than \$50).

3. Example 3: A gas container sells for \$60. The store offers an instant rebate of \$10 for the purchase of the gas container. The customer redeems the \$10 store rebate and pays the retailer \$50 for the gas container. The retailer’s sales price is reduced to \$50, and the gas container qualifies for the exemption.

(10) 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.

(11) 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.

(12) 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.

(13) 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 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.

(14) 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.

(15) 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.

(16) 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.

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

Rulemaking Authority Section 44, Chapter 2022-97, L.O.F. Law Implemented Section 44, Chapter 2022-97, L.O.F. History-New 05-09-22.

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: May 9, 2022

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