

Section IV
Emergency Rules

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12AER22-9
RULE TITLE: Sales Tax Holiday for Tools Commonly Used by Skilled Trade Workers During the Period of September 3, 2022, through September 9, 2022; Tool Time

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 46 of Chapter 2022-97, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the sales tax holiday for tools commonly used by skilled trade workers from September 3, 2022, through September 9, 2022. 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 46 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 September 3, 2022, through September 9, 2022, tax is not due on the retail sale tools commonly used by skilled trade workers.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Jennifer Ensley, Technical Assistance and Dispute Resolution, telephone (850)717-7659, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER22-9 Sales Tax Holiday for Tools Commonly Used by Skilled Trade Workers During the Period of September 3, 2022, through September 9, 2022; Tool Time.

(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 September 3, 2022, through September 9, 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 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.

(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:

(a) Hand tools selling for \$50 or less per item.

(b) Power tools selling for \$300 or less per item.

(c) Power tool batteries selling for \$150 or less per item.

(d) Work gloves selling for \$25 or less per pair.

(e) Safety glasses selling for \$50 or less per pair, or the equivalent if sold in sets of more than one pair.

(f) Protective coveralls selling for \$50 or less per item.

(g) Work boots selling for \$175 or less per pair.

(h) Tool belts selling for \$100 or less per item.

(i) Duffle bags or tote bags selling for \$50 or less per item.

(j) Toolboxes selling for \$75 or less per item.

(k) Toolboxes for vehicles selling for \$300 or less per item.

(l) Industry textbooks and code books selling for \$125 or less per item.

(m) Electrical voltage and testing equipment selling for \$100 or less per item.

(n) LED flashlights selling for \$50 or less per item.

(o) Shop lights selling for \$100 or less per item.

(p) Handheld pipe cutters, drain opening tools, and plumbing inspection equipment selling for \$150 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. 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.

(5) 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.

(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.

(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 46, Chapter 2022-97, L.O.F. Law Implemented Section 46, Chapter 2022-97, L.O.F. History-New 06-13-22.

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: 06/13/2022

[REDACTED]