

2011 Florida Sales Tax Holiday - Questions & Answers

General Questions

1. How is this year's sales tax holiday different from last year's holiday?

The August 2011 tax holiday differs from last year's holiday as listed below:

August 12 – 14, 2011 Holiday	Last Year's August 2010 Holiday
No tax is due on certain clothing, footwear, and accessories selling for \$75 or less.	No tax was due on certain clothing, footwear, and accessories selling for \$50 or less.
No tax is due on certain school supplies selling for \$15 or less.	No tax was due on certain school supplies selling for \$10 or less.
Books are <u>NOT</u> tax-exempt.	No tax was due on certain books sold for \$50 or less.

2. Where can I get complete information about this year's sales tax holiday? Tax Information Publication (TIP 11A01-03) describes the tax holiday dates, includes definitions of "clothing" and "school supplies" and also lists examples of taxable and exempt clothing, footwear, accessories, and school supplies. This TIP, mailed to all registered sales tax dealers in June, is also posted on the Department's website: www.myflorida.com/dor. If you want to read the law that authorized this holiday, you can find Chapter 2011-76, Laws of Florida, at: <http://laws.flrules.org/2011/76>.

3. Why isn't _____ (any item not listed) included in the tax holiday for school supplies? Only specific items were identified as exempt school supplies in the law passed by the 2011 Florida Legislature and approved by the Governor. No other items are authorized. The labeling or packaging of the item usually determines whether the item may be purchased tax-exempt during the three-day tax holiday. For example, "notebook filler paper" is exempt but paper labeled as "computer paper" is taxable.

4. Are dealers responsible for correctly charging sales tax during the tax holiday? How will business owners know what items are exempt from sales tax? The Department mailed a *List of Taxable and Tax-exempt Items* (in the law) to all registered sales and use tax dealers. The specific list of items is on pages 5 and 6 of TIP 11A01-03. This TIP is also posted on the Department's website: www.myflorida.com/dor.

The list of clothing and school supply items is extensive, but not all-inclusive. Whether a school supply item qualifies as tax-exempt is based on the labeling or packaging of the item.

If you have a question about a specific item not listed, contact the Department at **800-352-3671**, or visit our website: www.myflorida.com/dor.

5. Does the \$75 or less tax exemption apply to the first \$75 of an item of clothing being purchased? In other words, if the selling price of a clothing item is \$80, is the first \$75 exempt from sales tax?

No. The tax exemption applies to items selling for \$75 or less. If an item sells for more than \$75 (\$80 in this example), tax is due on the entire selling price.

6. Does the \$15 or less tax exemption apply to the first \$15 of a school supply item being purchased? In other words, if the selling price of a school supply item is \$20, is the first \$15 exempt from sales tax?

No. The exemption applies to school supply items selling for \$15 or less. If an item sells for more than \$15 (\$20 in this example), tax is due on the entire selling price.

7. Can I buy 3 shirts each costing \$75 at the same time and have each shirt be exempt from tax? Must I buy each shirt separately to get the tax break?

Yes, you can buy more than one item at a time on the same invoice. You do not have to purchase each item separately to get the tax break. The exemption is based on the sales price of each item, not the total sales amount on an invoice. Every eligible item of clothing with a sales price of \$75 or less sold during the tax holiday period will be exempt from sales tax. Similarly, every qualified school supply item with a sales price of \$15 or less sold during the tax holiday period will be exempt from sales tax.

8. Is there a limit on the number of items I may purchase tax-exempt during the three-day tax holiday?

No. The exemption is based on the sales price of the item, not the total invoice amount. Each eligible item of clothing with a selling price of \$75 or less, and each eligible school supply item with a selling price of \$15 or less, bought during the three-day tax holiday period, is exempt from sales tax.

9. If a key chain is included with a wallet or purse, is the entire purchase taxable?

Yes. Tax-exempt items sold in sets with taxable items are subject to tax. Exempt items must be sold as a separate item in order to qualify for the exemption. Sets that include both exempt items and taxable items are subject to tax. Exempt items listed on the same invoice as taxable items are exempt (when they are separately identified and separately priced).

10. Why are briefcases, suitcases, and other garment bags not exempt from tax during the holiday period?

The law (Chapter 2011-76, Laws of Florida) specifically states that briefcases, suitcases, and other garment bags are NOT tax-exempt during the tax holiday period.

11. Do business owners have the option of not participating in the tax holiday?

No. If a business owner mistakenly charges tax in error during the holiday, the owner should refund the tax to customers. If the tax cannot be refunded, the business owner must send the tax to the Department.

- 12. Are certain business locations not included in the tax holiday?** Theme parks, entertainment complexes, public lodging establishments, and airports are excluded from participating in the tax holiday. Sales at any of these establishments are taxable as usual.
- 13. What should a business owner do if he mistakenly collects tax during the sales tax holiday?** If tax is collected in error, the business owner should refund this tax to customers. If the tax cannot be refunded, the business owner must send the tax to the Department.
- 14. I bought some exempt items and the store owner charged me tax. What should I do?** Take your receipt to the store owner and ask for a refund of the tax.

Business Owner Questions

15. I don't sell clothes or school supplies. Why did I get the sales tax holiday Tax Information Publication (TIP)?

The TIP was mailed to all registered taxpayers with active sales and use tax accounts (approximately 554,000 accounts) to inform all dealers who sell clothing or exempt items about the sales tax holiday. Although you do not sell clothing or other exempt items, many dealers whose primary business is something other than selling clothing or school supplies may need this information. For example, a small grocery store may sell t-shirts, sandals, hats, pens, or pencils.

16. My business is closed. Why am I still getting mail from the Department of Revenue? Cancel my account.

If you received a TIP, your account was categorized as active and required-to-file in June when the Department created the TIP mailing list. To close your account, you must notify us in writing that you want to cancel the account. We require a statement from you that your business is closed, with the account number that should be cancelled. When your account is cancelled, you should not receive any more TIPs from the Department.

You can send a request to cancel your account online at:
<https://taxapp2.state.fl.us/survey/txinquiry.cfm>

You can mail correspondence to:

Taxpayer Services
Florida Department of Revenue
Mail Stop 3-2000
5050 W Tennessee St
Tallahassee, Florida 32399-0112

17. Do I need to change my accounting system to show the temporary exemptions?

Your accounting system should adequately identify all tax-exempt items sold. Exempt sales made during the tax holiday must be documented in the same manner as other exempt sales made throughout the year.

Refunds/Exchanges

18. If a customer buys an eligible item before the three-day tax holiday and then exchanges it during the tax holiday for another eligible item, is the customer due a refund or a credit of tax?

The customer should get a full refund or credit including tax, for the exchanged item, assuming there is proof that tax was paid. No tax is due on the eligible item purchased during the holiday.

19. If a customer requests a refund or exchange between August 12 and October 31, 2011, without a sales receipt, may the business owner refund the tax?

For the period August 12, 2011 through October 31, 2011, when a customer returns an item that would qualify for the exemption, no refund of tax may be given unless the customer provides a receipt or invoice showing tax was paid, or the retailer has documentation to verify that the tax was paid on the specific item.

20. If a customer returns an exempt item and is given a different item of equal price after the holiday period, is sales tax due on the new item?

If a customer buys a tax-exempt item during the tax holiday period and later exchanges it for the same item (different size, different color, etc.), no tax will be due, even if the exchange is made after the exemption period.

If a customer buys an item during the tax holiday period and later returns the item after the exemption period and gets a different item, sales tax will apply to the new purchase even if it is the same price. For example, if a shirt is returned and the customer buys a pair of pants, tax is due on the price of the new pants.

Coupons, Rebates, and Discounts

21. Why does a store discount coupon reduce the sales price of an eligible item but a manufacturer's coupon or rebate does not?

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 an eligible item of clothing to \$75 or less or a school supply item of \$15 or less. Tax is due on the total consideration received by the store for the sale of merchandise.

Manufacturer's coupon example: If a customer buys a purse for \$85 and presents a \$15 manufacturer's coupon, the selling price of the purse is \$85 and it is taxable. The \$15 coupon is part of the consideration paid by the manufacturer to the retailer; therefore, it does not reduce the retail selling price of the purse.

Discount example: A customer buys a purse for \$85 and the store offers a discount coupon of 20%. The selling price of the purse is \$68, and the purse is tax-exempt if purchased during the tax holiday. (Store discount coupons and discounts reduce the sales price of an item.)

Rebate example: Rebates occur after the sale and do not affect the sales price of an item purchased. A jacket sells for \$85. The customer receives a \$10 rebate from the manufacturer. The rebate occurs after the sale, so it does not reduce the sales price of the jacket. Tax is due on \$85.

Gift Certificates

22. If a gift certificate for clothing is purchased during the sales tax holiday but the customer uses the certificate after the sales tax holiday, can the customer use the gift certificate to make tax-exempt purchases?

No, the purchase of the eligible item must be made during the three-day sales tax holiday to be exempt from tax. When eligible items are purchased during the tax holiday using a gift certificate, the eligible items qualify for the exemption, regardless of when the gift certificate was purchased. However, eligible items purchased after the holiday period using a gift certificate are taxable, even if the gift certificate was purchased during the holiday period.

Rain Checks

23. Why can't rain checks issued during the sales tax holiday be used after the holiday to make tax-exempt purchases?

To be exempt from tax, the clothing or other eligible item must be purchased during the sales tax holiday. When a rain check is issued, a sale has not occurred. The sale occurs when the rain check is redeemed and the specified item is purchased. Therefore, if an item is purchased using a rain check after the tax exemption period, the item is taxable.

Layaway Sales

24. Are clothing items that are put on layaway during the three-day tax holiday, eligible for the tax exemption?

Yes. Items placed on layaway (set aside for 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) during the sales tax holiday are exempt from tax. Also, if the final payment on a layaway order of eligible items is made and the merchandise is given to the customer during the holiday period, the items are exempt from tax, regardless of when they were placed on layaway.

Mail Order or Internet Sales

25. If I buy tax-exempt items by mail order (normally I pay use tax on Form DR-15MO), do I get the exemption?

Yes. All purchases of eligible items during the sales tax holidays are exempt from tax, including purchases made by mail order.

26. How does the exemption apply to sales over the Internet?

Sales over the Internet are treated the same as mail order sales.

27. How do I proportionally allocate shipping charges between the items ordered on a mail order sale?

To proportionally allocate the shipping charge, the amount of each item should be divided by the total amount of the items ordered to obtain the percentage that each item bears to the total order. Then multiply the total shipping charge by the percentage for each item to determine the amount of the shipping charge applicable to that item.

The shipping charge for each item must be separately stated on the invoice to the customer. The shipping charge is part of the selling price when determining if an item meets the tax-exempt threshold.

For example, a customer orders a \$75 dress and a \$25 shirt, for a total of \$100. The shipping charge is \$10. Example: $\$25 / \$100 = 25\%$ (25 divided by 100 equals 25%). Therefore, 25% or \$2.50 of the shipping charge is allocated to the shirt, and included as part of the selling price of the shirt (\$27.50). The other 75% (\$7.50) is included in the selling price of the dress, making the price of the dress \$82.50, which would not qualify for the exemption.

Records and Reporting

28. Do I need to account for tax holiday tax-exempt sales differently?

There are no additional record-keeping requirements. You must maintain your records and document exempt sales as required under current law.

Merchant's License or Other Fees (Two Cities in Bay County Only)

29. In Panama City and Panama City Beach, Florida, why is a 1% merchant's license fee (sometimes referred to as a *gross receipts fee*) added to the sales price of clothing or school supplies? For example, if the sales price of a clothing item before adding the 1% merchant's license fee is less than \$75, but after adding the 1% merchant's license fee the sales price is greater than \$75, can the item be purchased tax-exempt?

The 1% merchant's license fee is included in the total sales price of an item, even if separately stated. Therefore, the total sales price, including the 1% merchant's license fee, is the amount which determines the taxability of the item.

Note: Panama City and Panama City Beach are the only locations in Florida where a 1% merchant's license fee (also referred to as a *gross receipts fee*) is imposed.