



Executive Director
Marshall Stranburg

QUESTION: ARE THE SALES OF CERTAIN MEDICAL PRODUCTS TO CUSTOMERS LOCATED IN FLORIDA SUBJECT TO FLORIDA SALES TAX?

ANSWER: THE SALES OR LEASES OF THE FOLLOWING ITEMS ARE SPECIFICALLY EXEMPT FROM SALES TAX WITHOUT A PRESCRIPTION:

- NEW AND USED ELECTRIC WHEELCHAIRS
- NEW AND USED ELECTRIC MOBILITY SCOOTERS
- NEW AND USED MANUAL WHEELCHAIRS
- NEW WALKING AIDS (WALKING CHAIRS, WALKING BARS, CRUTCHES, AND CANES)
- NEW AND USED BATTERIES SPECIFICALLY MANUFACTURED AND LABELED FOR ELECTRIC WHEELCHAIRS AND SCOOTERS
- NEW AND USED BATTERY CHARGERS SPECIFICALLY MANUFACTURED AND ADAPTED FOR ELECTRIC WHEELCHAIRS AND SCOOTERS
- NEW AND USED SHROUDS FOR WHEELCHAIRS AND SCOOTERS
- NEW AND USED JOYSTICKS FOR WHEELCHAIRS AND SCOOTERS
- USED WHEELCHAIR AND SCOOTER TIRES
- NEW AND USED LEG RESTS FOR WHEELCHAIRS AND SCOOTERS
- NEW AND USED REPLACEMENT SEATS FOR WHEELCHAIRS AND SCOOTERS

THE SALES OF THE FOLLOWING ITEMS ARE EXEMPT FROM SALES TAX IF A PROPERLY AUTHORIZED PRESCRIPTION IS PRESENTED AT OR BEFORE THE TIME OF SALE:

- NEW BATH BENCH (ADULT BATH BENCH-PREMIUM-DRIVE MEDICAL LISTED ON TAXPAYER'S WEBSITE)
- NEW AND USED ELECTRIC MOBILITY LIFTS (FOR BEHIND OR IN THE VEHICLE)
- ELECTRIC WIRE HARNESS FOR THE ELECTRIC MOBILITY LIFTS
- NEW AND USED RAMPS (FOR USE IN VEHICLES AND GETTING INTO THE DOOR OF YOUR HOUSE FOR WHEELCHAIRS). THE RAMPS MUST BE SPECIFICALLY DESIGNED AND SOLD FOR USE BY INDIVIDUALS WITH WHEELCHAIRS AND SCOOTERS.
- NEW AND USED MANUAL CARRIERS (NON-ELECTRIC FOR BEHIND THE VEHICLE) FOR WHEELCHAIRS AND SCOOTERS
- USED OXYGEN TANK HOLDERS FOR WHEELCHAIRS AND SCOOTERS

THE SALES OF NEW AND USED COVERS FOR WHEELCHAIRS AND SCOOTERS WOULD BE TAXABLE, EVEN WITH A PRESCRIPTION, AS THEY ARE AN ACCESSORY TO, RATHER THAN A PART OF, THE WHEELCHAIR OR SCOOTER AND ARE NOT NECESSARY FOR A DISABLED PERSON TO USE THEM. BATTERY CHARGERS OF THE TYPE SOLD TO THE GENERAL PUBLIC ARE SUBJECT TO SALES TAX.

November 3, 2014

Re: Technical Assistance Advisement – TAA 14A-029
Florida Sales and Use Tax
Medical Products
Section: 212.08, Florida Statute (F.S.)
Rule: 12A-1.021, Florida Administrative Code (F.A.C.)
XXXX (“Taxpayer”)
FEI#: XXXX

Dear XXXX:

This letter is a response to your letter, dated XXXX, requesting the Department's issuance of a Technical Assistance Advisement ("TAA") pursuant to Section 213.22, F.S., and Rule Chapter 12-11, F.A.C., regarding the sale of medical equipment. An examination of your letter has established that you have complied with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of Section 213.22, F.S.

FACTS

Taxpayer is a licensed dealer of mobility products. Taxpayer is located in XXXX, Florida. Taxpayer seeks guidance on the taxability of its sales of mobility products.

Requested Advisement

Are Taxpayer's sales of the following products to its customers subject to Florida sales and use tax when the customers do not have a prescription for such products?

- New and used electric mobility wheelchairs
- New and used electric mobility scooters
- New and used manual wheelchairs
- New walking aids
- New bath benches
- New and used electric mobility lifts (for behind or in the vehicle)
- Electric wire harness for the electric mobility lifts

- New and used ramps (for use in vehicles and getting into the door of your house for wheelchairs)
- New and used manual carriers (non-electric for behind the vehicle) for wheelchairs and scooters
- New and used batteries for electric wheelchairs and scooters
- New and used chargers for electric wheelchairs and scooters
- New and used shrouds¹ for wheelchairs and scooters (actual parts of a wheelchair/scooter)
- Used oxygen tank holders for wheelchairs and scooters
- New and used joysticks for electric wheelchairs and scooters
- New and used covers for wheelchairs and scooters
- Used tires for wheelchairs and scooters
- New and used leg rests for wheelchairs and scooters
- New and used replacement seats for wheelchairs and scooters

LAW & DISCUSSION

Section 212.08(2), F.S., provides that prosthetic and orthopedic appliances dispensed according to an individual prescription or prescriptions written by a duly licensed practitioner or indicated on a list prescribed and approved by the Department of Health, which is certified to the Department of Revenue (DR-46NT, Nontaxable Medical and General Grocery List), are specifically exempt from sales tax.

The term “prosthetic and orthopedic appliance” is defined in Section 212.08(2)(b)1., F.S., in part as “any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, used to alleviate the malfunction of any part of the body, or used to assist any disabled person in leading a normal life by facilitating such person's mobility.”

For a sale of a prosthetic or orthopedic appliance to be exempt without a prescription, the product must be specifically listed in Rule 12A-1.021, F.A.C., and on Form DR-46NT. Wheelchairs, including powered models, their parts and repairs are exempt from Florida’s sales and use tax without a prescription, according to Form DR-46NT and Rule 12A-1.021(1)(b), F.A.C. The exemption also applies to scooters. Electric scooters function in the same manner as electric wheelchairs and, in fact, share the same characteristics. Electric scooters are lighter, easier to transport, and often utilize a tiller bar to steer. Electric wheelchairs are heavier, more durable, and often utilize a joystick to steer and operate. Electric scooters and electric wheelchairs are similar in appearance, and both are used by the infirm or handicapped. It appears that the term "scooter" has been developed and used by manufacturers as a marketing tool to avoid the term "wheelchair." Electric scooters are not specifically listed as exempt from tax. However, a common and accepted method of statutory construction is to refer to a dictionary when the plain meaning of a statute or rule is unclear. The dictionary defines the term "wheelchair" as a mobile chair or chair-like structure mounted on wheels for use by persons unable to walk. Electric powered scooters of the type used by the infirm or handicapped meet the

¹ Taxpayer described a shroud as a plastic covering for the batteries on a wheelchair.

definition of a "wheelchair" and do not differ significantly from electric powered wheelchairs. As such, electric powered scooters of the type used by the handicapped and infirm are specifically exempt from tax under Section 212.08(2), F.S., and Rule 12A-1.021(1)(b), F.A.C.

Rule 12A-1.021, F.A.C., and Form DR-46NT also provide that walking aids, such as canes, crutches, crutch tips, and pads, walking bars, and walkers, including walker chairs and batteries for use in prosthetic and orthopedic appliances are exempt without a prescription.

In addition to the exemption granted for prosthetic and orthopedic appliances sold pursuant to a prescription, Section 212.08(2)(j), F.S., provides that parts, special attachments, special lettering, and other items that are added to or attached to tangible personal property so that a handicapped person can use them, are exempt when such items are purchased by a person pursuant to an individual prescription.

Thus, based upon the listing you submitted and the applicable authority discussed above, the following items are exempt without a prescription:

- New and used electric wheelchairs
- New and used electric mobility scooters
- New and used manual wheelchairs
- New walking aids (walking chairs, walking bars, crutches, and canes)
- New and used batteries specifically manufactured and labeled for electric wheelchairs and scooters
- New and used battery chargers specifically manufactured for electric wheelchairs and scooters
- New and used shrouds for wheelchairs and scooters
- New and used joysticks for electric wheelchairs and scooters
- Used wheelchair and scooter tires
- New and used leg rests for wheelchairs and scooters
- New and used replacement seats for wheelchairs and scooters

CONCLUSION

The sales or leases of the following items are specifically exempt from sales tax without a prescription:

- New and used electric wheelchairs
- New and used electric mobility scooters
- New and used manual wheelchairs
- New walking aids (walking chairs, walking bars, crutches, and canes)
- New and used batteries specifically manufactured and labeled for electric wheelchairs and scooters

- New and used battery chargers specifically manufactured and adapted for electric wheelchairs and scooters
- New and used shrouds for wheelchairs and scooters
- New and used joysticks for electric wheelchairs and scooters
- Used wheelchair and scooter tires
- New and used leg rests for wheelchairs and scooters
- New and used replacement seats for wheelchairs and scooters

The sales of the following items are exempt from sales tax if a properly authorized prescription is presented at or before the time of sale:

- New bath bench (Adult Bath Bench-Premium-Drive Medical listed on Taxpayer's website)
- New and used electric mobility lifts (for behind or in the vehicle)
- Electric wire harness for the electric mobility lifts
- New and used ramps (for use in vehicles and getting into the door of your house for wheelchairs). The ramps must be specifically designed and sold for use by individuals with wheelchairs and scooters.
- New and used manual carriers (non-electric for behind the vehicle) for wheelchairs and scooters
- Used oxygen tank holders for wheelchairs and scooters

The sales of new and used covers for wheelchairs and scooters are taxable, even with a prescription as they are an accessory to, rather than a part of, the wheelchair or scooter and are not necessary for a disabled person to use them. Battery chargers of the type sold to the general public are subject to sales tax. Battery chargers that are specifically manufactured and adapted (e.g., with a special plug or connection) for use with electric wheelchairs and scooters and sold as an accessory to an electric wheelchair or scooter are exempt from sales tax.

CLOSING STATEMENT

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 Advise ment, 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 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 850-717-6363.

Sincerely,

Leigh L. Ceci
Tax Law Specialist
Technical Assistance & Dispute Resolution

Record ID: 177133