



Executive Director
Marshall Stranburg

QUESTION(S): WHETHER PERSONAL MOBILITY SCOOTERS ARE EXEMPT FROM FLORIDA SALES TAX?

ANSWER: SECTION 212.08(2), F.S., PROVIDES CERTAIN EXEMPTIONS FOR PROSTHETIC AND ORTHOPEDIC APPLIANCES. RULE 12A-1.021(1)(b), F.A.C., PROVIDES A LIST OF PROSTHETIC AND ORTHOPEDIC APPLIANCES WHICH ARE SPECIFICALLY EXEMPT FROM SALES TAX. INCLUDED IN THIS RULE AS SPECIFICALLY EXEMPT APPLIANCES ARE “WHEELCHAIRS, INCLUDING POWERED MODELS.” ELECTRIC POWERED SCOOTERS ARE NOT LISTED IN THE RULE AS SPECIFICALLY EXEMPT FROM TAX. HOWEVER, THE DEPARTMENT OF REVENUE, IN CONJUNCTION WITH THE FLORIDA DEPARTMENT OF HEALTH, HAS REVIEWED TITLE 21 OF THE CODE OF FEDERAL REGULATIONS, PART 800, AND CONCLUDED THAT ELECTRIC POWERED SCOOTERS, OF THE TYPE COMMONLY USED BY THE HANDICAPPED OR THE INFIRMED, ARE MEDICAL DEVICES WHICH ARE SIMILAR TO WHEELCHAIRS, INCLUDING POWERED MODELS, AND AS SUCH ARE SPECIFICALLY EXEMPT FROM TAX UNDER SECTION 212.08(2)(a), F.S., AND RULE 12A- 1.021(1)(b), F.A.C.

June 5, 2014

Re: Technical Assistance Advisement – TAA 14A-014
XXXX (“Taxpayer”)
FEIN: XXXX
Sales and Use Tax- Motorized Scooters
Section 2 12.08(2), Florida Statutes (“ F.S”)
Rule 12A-1.021, Florida Administrative Code (“F.A.C.”)

Dear XXXX:

This response is in reply to your letter dated XXXX, requesting the Department’s issuance of a Technical Assistance Advisement (“TAA”) pursuant to Section 213.22, F. S., and Chapter 12-11, F.A. C., regarding the referenced matter and party. An examination of your petition has established that you have complied with the statutory and regulatory requirements for issuance of a TAA. Therefore, the Department is hereby granting your request for issuance of a TAA.

ISSUE

Whether the rental of personal mobility scooters that Taxpayer rents are specifically exempt from Florida sales tax.

INFORMATION SUPPLIED

According to Taxpayer's request for a Technical Assistance Advisement, Taxpayer rents personal mobility scooters to handicapped and disabled individuals. According to Taxpayer's website,¹ Taxpayer rents the following mobility scooters:

- XXXX
- XXXX
- XXXX
- XXXX

APPLICABLE AUTHORITY

Section 212.08(2), F.S., provides, in part:

(2) EXEMPTIONS; MEDICAL.

(a) There shall be exempt from the tax imposed by this chapter any medical products and supplies or medicine dispensed according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Business and Professional Regulation, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. In addition, any items intended for onetime use which transfer essential optical characteristics to contact lenses shall be exempt from the tax imposed by this chapter; however, this exemption shall apply only after \$100,000 of the tax imposed by this chapter on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the

¹ XXXX

body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, or according to a list prescribed and approved by the Department of Health which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

Rule 12A-1.021(1)(b), F.A.C., provides in pertinent part:

(b) The prosthetic and orthopedic appliances listed below are specifically exempt:

Wheelchairs, including powered models, their parts and repairs.

DISCUSSION

Section 212.08(2), F.S., exempts certain medical products and supplies from sales tax: (1) if those products or supplies are prescribed or (2) if those medical products or supplies are listed in Rule 12A-1.021(b), F.A.C., with or without a prescription. Included in Rule 12A-1.021(b), F.A.C., are "wheelchairs, including powered models." 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 in the rule as exempt from tax. 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 chairlike structure mounted on wheels for use by persons unable to walk. Electric powered scooters of the type used by the infirm or handicapped meet this definition and are medical devices or products. They meet the 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)(a), F.S., and Rule 12A-1.021(1)(b), F.A.C.

CONCLUSION

The personal mobility scooters rented by Taxpayer are functionally equivalent to powered wheelchairs and are therefore specifically exempt from Florida sales tax.

CLOSING STATEMENT

This response constitutes a Technical Assistance Advisement under § 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 § 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory and administrative rule changes or those 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., which are subject to disclosure to the public under the conditions of § 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request that you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, 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 15 days of the date of this letter.

Sincerely,

Michael T. Cavanaugh
Tax Law Specialist
Technical Assistance and Dispute Resolution
850-922-9411

Control # 165762