

## **DECLARATION OF EMERGENCY**

### **Department of Revenue Policy Services Division**

#### **State Sales Tax Holiday on Purchases of Hurricane Preparedness Items (LAC 61:I.4423)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, R.S. 47:295 and R.S. 47:1511, which allow the Department to make reasonable rules and regulations, the Secretary of Revenue hereby finds that due to the impending state sales tax holiday, imminent peril to the public welfare exists and accordingly adopts the following emergency rule. This Emergency Rule shall be effective, March 20, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final rule, whichever comes first.

This Emergency Rule is necessary to allow the Secretary to administer the state sales tax holiday for the tax year 2008 and beyond. R.S. 47:305.58 as enacted by Act 429 of the 2007 Regular Session of the Legislature allows for an annual state sales tax exemption on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies. Because Act 429 does not define several terms as they are used in the Act, the Department of Revenue is compelled to define those terms and set a procedure for application of the Act.

Title 61  
REVENUE AND TAXATION  
Part I. Taxes Collected and Administered  
By the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§ 4423 State Sales Tax Holiday on Purchases of Hurricane Preparedness Items

A. Louisiana Revised Statute 47:305.58 allows for an exemption of the state sales tax on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies.

1. Tax-free purchases are authorized on the first \$1,500 of the sales price of each hurricane-preparedness item.
2. The sales tax exemption only applies to purchases of the following items or supplies:
  - a. any portable-self-powered light source
  - b. any portable self-powered radio, two-way radio, or weather band radio

- c. any tarpaulin or other flexible waterproof sheeting
- d. any ground anchor system or tie-down kit
- e. any gas or diesel fuel tank
- f. any package of AAA-cell, AA-cell, C-cell, D-cell, 6 volt, or 9-volt batteries, excluding automobile and boat batteries
- g. any cell phone battery and any cell phone charger
- h. any non-electric food storage cooler
- i. any portable generator used to provide light or communications or preserve food in the event of a power outage
- j. any “storm shutter device,” as defined in the Act
- k. any carbon monoxide detector
- l. any reusable freezer pack such as “blue ice”

3. The state sales tax exemption provided does not apply to hurricane-preparedness items or supplies sold at any “airport,” “public lodging establishment or hotel,” “convenience store,” or “entertainment complex.”

#### B. Definitions

*Airport*-any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; all appurtenant areas used or suitable for airport buildings or other airport facilities; and all appurtenant rights of way including easements through or other interest in air space over land or water and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas and efficient operation thereof.

*Hotel*-any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location. The term *public lodging establishment* is interpreted to include other businesses that offer lodging to transient guests for compensation, including “bed and breakfast” businesses.

*Convenience Store*-retail businesses that are smaller in square footage than full-line grocery stores, discount stores, department stores, or pharmacies, and that place primary emphasis on providing the public convenient locations from which to quickly purchase from limited lines of consumable products. In order to be considered a “convenience store,” sales must consist primarily of motor fuel and lubricants; snack foods, including sandwiches, hot dogs, candy, nuts, and chips; beer; liquor; wine; tobacco products; soft drinks; fishing baits; newspapers; and magazines, and the sales of the

business must be sufficiently diversified within these product lines so that the business **is** not classified as a specialty retailer such as a liquor store, sandwich shop, newsstand, or tobacco shop.

Convenience stores typically have the following characteristics:

- Inside sales areas that are less than 5,000 sq. ft.;
- Off-street parking and/or convenient pedestrian access; and
- Extended hours of operation with many open 24 hours, seven days a week.

*Entertainment Complex*-a premise that is a site for the performance of musical, theatrical, or other entertainment; country clubs; tennis clubs; swimming clubs; bowling establishments; skating rinks; movie theatres; amusement parks; zoos; or similar entertainment-oriented businesses.

#### C. Procedure for State Sales Tax Holiday

1. A taxpayer may make state sales tax-free purchases on the first \$1,500 of the sales price on each of the above enumerated hurricane-preparedness items or supplies on the last Saturday and Sunday of each May.

2. The state sales tax holiday shall not apply to any vendor qualifying under the above enumerated definitions of “airport,” “public lodging establishment or hotel,” “convenience store,” or “entertainment complex.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.759, R.S. 47:1601, R.S. 47:1603, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 32: