



**Revenue Information Bulletin
No. 10-011
May 25, 2010
Sales and Use Tax**

**Annual State Sales Tax Holiday for Purchases of Hurricane-Preparedness Items
Scheduled May 29 and 30, 2010**

La. Rev. Stat. Ann. § 47:305.58 provides for an annual state sales tax holiday on sales made on the last Saturday and Sunday of each May of hurricane-preparedness items or supplies. The sales tax holiday for 2010 will begin at 12:01 a.m. on Saturday, May 29, 2010, and will conclude at 11:59 p.m. on Sunday, May 30, 2010.

This statute provides that sales of otherwise eligible hurricane-preparedness items will not be eligible for exemption when sold at certain types of businesses, including “airports,” “public lodging establishments or hotels,” “convenience stores,” or “entertainment complexes.” The Department has promulgated a rule, Section 61:I.4423 of the Louisiana Administrative Code, to provide definitions of these four types of businesses for purposes of this exclusion.

R.S. 47:305.58, as enacted by Act 429 of 2007, provides that this holiday exemption applies to the four percent sales tax imposed by the State of Louisiana and, under terms of R.S. 47:337.8(B)(1), does not apply to sales and use taxes imposed by political subdivisions of the state.

Background/Analysis

During the two-day annual state sales tax holiday, tax-free purchases are authorized on the first \$1,500 of the sales price of each portable self-powered light source; portable self-powered radio, two way radio, or weather band radio; tarpaulin or other flexible waterproof sheeting; any ground anchor system or tie-down kit; any gas or diesel fuel tank; any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries; any cell phone battery and any cell phone charger; any nonelectric food storage cooler; any portable generator used to provide light or communications or preserve food in the event of a power outage; any “storm shutter device”¹; any carbon monoxide detector; and any blue ice product. However, § 47:305.58 provides that the exemption does not apply “...to hurricane preparedness items or supplies sold at any airport, public lodging establishment or hotel, convenience store, or entertainment complex.”

Under LAC 61:I.4423, these terms, as utilized in R.S. 47:305.58, are deemed to have the following meanings:

- The term “airport”, as defined by La. Rev. Stat. Ann. § 2:1(9), means and includes “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 interests 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.”

¹ Act 429 of the 2007 Regular Session defines “storm shutter device” as “materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms. In addition, Act 462 of the 2007 Regular Session provides a permanent state sales and use tax exclusion for “storm shutter devices,” and authorizes, but does not require, political subdivisions of the state to provide a similar exclusion from their sales and use tax.

- The term “hotel,” as defined by La. Rev. Stat. Ann. § 47:301(6)(a), means and includes “any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consist 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 stores” are 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 businesses 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.
- For purposes of § 47:305.58, “entertainment complex” includes 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.

Conclusion

Section 47:305.58 enacts a state sales tax holiday during the last Saturday and Sunday of each month of May. During this period, sales and use tax should not be collected on the purchase of the first \$1,500 of hurricane-preparedness items, as defined above. However, should a vendor fall within the definition of an “airport,” “public lodging establishment or hotel,” “convenience store,” or “entertainment complex,” as defined above, the sales and use tax exemption found in § 47:305.58 shall not apply.

Cynthia Bridges
Secretary