

12A-1.0015 Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats.

(1) SCOPE.

(a) Tangible personal property imported, produced, or manufactured in this state for export, as provided in Section 212.06(5)(a)1., F.S., is not subject to Florida sales tax when the importer, producer, or manufacturer delivers the property to a licensed exporter for export outside Florida or to a common carrier for shipment outside Florida, or mails the property by United States mail to a destination outside Florida. This rule is intended to provide tax guidelines for the sale of tangible personal property for the purposes of export from Florida.

(b) The provisions of this rule do not apply to sales of aircraft, boats, mobile homes, motor vehicles, or other vehicles. For guidelines on the export of these items from Florida, see Rule 12A-1.007, F.A.C.

(2) SALES OF PROPERTY IRREVOCABLY COMMITTED TO EXPORTATION.

(a) A dealer is required to collect tax on sales of tangible personal property when the property is delivered to the purchaser or the purchaser's representative in Florida, whether the disclosed or undisclosed intention of the purchaser is to transport the property to a location outside Florida, or whether the property is actually so transported. Every sale of tangible personal property to a person physically present at the time of sale is presumed to have been delivered in Florida.

(b) When a dealer sells tangible personal property, commits the property to the exportation process at the time of sale, and the exportation process remains continuous and unbroken until the property is exported from Florida, the dealer is not required to collect tax. The intent of the seller and the purchaser to export the property is not sufficient to establish that the property is not subject to tax in Florida. The delivery of the property to a location in Florida for subsequent export from Florida is insufficient to establish documentary evidence that the property sold was irrevocably committed to the exportation process. The following are examples of methods to commit the property to the exportation process at the time of sale:

1. The dealer is required by the terms of the sale contract to deliver the property outside Florida using the dealer's own mode of transportation;

2. The dealer is required by the terms of the sale contract to mail the property by United States mail to a destination located outside Florida; or

3. The dealer is required by the terms of the sale contract to deliver the property to a carrier, licensed customs broker, or forwarding agent for final and certain movement of the property to a destination located outside Florida.

a. The term "carrier" means a person regularly engaged in the business of transporting tangible personal property owned by other persons for compensation. The term "carrier" includes common carriers and contract carriers.

b. The term "licensed customs broker" means a person licensed by the United States customs service to act as a custom house broker.

c. The term "forwarding agent" means a person regularly engaged in the business of preparing property for shipment or arranging for its shipment for compensation.

d. Any person not engaged in the business of receiving tangible personal property owned by other persons and shipping or arranging for shipping for compensation does not become a carrier or forwarding agent by being designated by the purchaser to receive and ship goods to a point outside Florida.

(c) Any dealer who makes tax-exempt sales of tangible personal property for export outside Florida is required to maintain records to document that the property is committed to the exportation process at the time of sale and that the exportation process is continuous and unbroken until the property is exported from Florida. The dealer is required to maintain records that identify the tangible personal property sold and the delivery destination of the property. The documentation must clearly establish that the property was not commingled with the mass of property within Florida. If the purchaser exercises any act of dominion or control that would constitute "use" of the property by the purchaser in Florida within the meaning of that term set forth in Section 212.02(20), F.S., the property was not irrevocably committed to the exportation process. Examples of records to document sales for export to points outside Florida are:

1. Internal delivery orders identifying the property sold and the destination and date of delivery that are supported by receipts of expenses incurred in delivering the property, such as trip tickets or truck logs signed by the person who delivers the property;

2. United States Postal Service parcel post receipts with supporting documentation identifying the property and the destination;

3. Common carriers' receipts, bills of lading, or similar documentation that evidences the delivery destination;

4. Export declaration;

5. Receipts from a licensed customs broker; or

6. Proof of export signed by a customs officer.

(d) A dealer who imports taxable tangible personal property into Florida for exportation from Florida is required to maintain documentation that the imported property was irrevocably committed to the exportation process at the time of importation and that the exportation process was continuous and unbroken while such property was within Florida.

(e) Regardless of the evidence maintained by the dealer to document delivery of the property to a common carrier or a licensed customs broker for shipment to a location outside Florida, or the mailing of the property by the United States mail to a location outside Florida, tax is due when the property is diverted in transit to the purchaser or the purchaser's agent or representative in Florida and such person takes possession in Florida, or when for any other reason the property is not delivered outside Florida.

(3) SALES TO NONRESIDENT DEALERS.

(a) The sale of taxable tangible personal property to a nonresident dealer is exempt when the selling dealer obtains a statement from the nonresident dealer declaring that the tangible personal property will be transported outside Florida by the nonresident dealer for resale and for no other purpose. The statement executed by the nonresident dealer must include the declaration and all of the following information:

1. The nonresident dealer's name and address;
2. Evidence of authority to do business in the dealer's home state or country, such as the nonresident's business name and address, sales tax registration number, occupational license number, or any other evidence of transacting business in that state or country;
3. For nonresident dealers who are not residents of the United States, the dealer's passport or visa number and arrival-departure card number;
4. The following provision: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief"; and
5. The signature of the purchaser executing the statement.

(b) For purposes of this rule, a "nonresident dealer" is any person who does not hold a valid Florida sales tax certificate of registration and who is authorized in another state or country to make sales of tangible personal property in that state or country.

(c) A selling dealer who makes a sale of taxable tangible personal property to a nonresident dealer is required to obtain the required statement or collect the applicable tax on the sale.

(d) The following is a suggested format of the statement to be completed by the purchaser and presented to the selling dealer:

TANGIBLE PERSONAL PROPERTY
FOR RESALE BY A NONRESIDENT DEALER

This is to certify that the tangible personal property described below will be transported outside Florida for resale and for no other purpose.

NAME OF SELLING DEALER: _____

DEALER'S ADDRESS: _____

DEALER'S SALES TAX NO.: _____

NAME OF NONRESIDENT DEALER: _____

ADDRESS OF NONRESIDENT DEALER: _____

HOME STATE'S SALES TAX NO.: _____

PASSPORT OR VISA NO.: _____

ARRIVAL-DEPARTURE CARD NO.: _____

PURCHASER'S EVIDENCE OF AUTHORITY TO DO BUSINESS IN HOME STATE: _____

The tangible personal property purchased in Florida on INVOICE NUMBER(S) _____, or described as follows, is solely for resale outside Florida.

Description of Property: _____

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signature of Purchasing Nonresident Dealer Date

(4) SALES TO FOREIGN DIPLOMATS, CONSULAR EMPLOYEES, AND MEMBERS OF THEIR FAMILIES.

(a) Sales to foreign diplomats, consular officers, consular employees, and members of their families are entitled to certain sales tax exemptions or limitations determined by the United States Department of State when the United States Department of State has determined that the foreign nation represented has a treaty with the United States that exempts United States diplomats, consular officers, consular employees, and members of their families from the foreign country's similar state and local sales taxes. Foreign diplomats and consular personnel seeking an exemption from Florida sales tax must personally present to the vendor at the time of purchase a tax exemption card issued to the individual by the United States Department of State. The tax exemption card will set forth the terms of the sales tax exemption to which the individual is entitled and will serve as the seller's authority to allow the specific sales tax exemption as provided on the card to the named person whose photograph appears on the card.

(b) To document qualified tax-exempt sales to foreign diplomats and consular personnel, the selling dealer must maintain:

1. A copy of both sides of the tax exemption card; or
2. The following information as shown on the tax exemption card issued to the purchaser: mission name, name of purchaser, date of sale, amount of sale, stripe color code or other indication of the level of exemption, expiration date, the tax exemption number, and the United States Department of State card number.

(c) Questions regarding the diplomatic exemption should be directed in writing to the Florida Department of Revenue, Tax Information Services, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112 or by telephone to Taxpayer Services at (800) 352-3671.

(5) RECORDKEEPING REQUIREMENTS.

(a) Selling dealers must maintain copies of internal delivery orders and supporting documentation, trip tickets, truck log records, United States Postal Service parcel post receipts, bills of lading, receipts from common carriers, export declarations, customs documents, receipts from licensed customs brokers, statements signed by a customs officer, declarations by nonresident dealers, copies of tax-exemption cards issued by the United States Department of State, exemption certificates, and other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required certificates and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

212.13(1), (2), (3), (4), 212.21(3) FS. History--New 6-12-03.