

SALES TAX HOLIDAY FOR CLOTHING AND SCHOOL SUPPLIES **GUIDELINES AND RULES**

July 1, 2009

These guidelines and rules are published by the Department of Taxation (“TAX”) to provide guidance to retailers and consumers regarding Virginia’s sales tax holiday for clothing and school supplies, provided for by Senate Bill 571 and House Bill 532 (Chapters 579 and 593, 2006 Acts of Assembly). The sales tax holiday is a recurring event, which begins at 12:01 a.m. on the first Friday in August of every year and ends at midnight on the Sunday immediately following. These guidelines and rules are applicable to the holiday event taking place in 2009 and subsequent years.

During the sales tax holiday period, consumers may purchase certain school supplies, clothing, and footwear exempt of the Retail Sales and Use Tax. The exempt items include: each school supply item with a selling price of \$20 or less and each article of clothing or footwear with a selling price of \$100 or less. Dealers are also permitted to absorb the sales and use tax on all other items sold during the same time period, thereby relieving purchasers of the obligation to pay such tax. Dealers who elect to absorb such taxes are liable for payment of the same to TAX.

TAX has worked with affected retailers and retail organizations to develop these guidelines and rules. TAX has also developed a series of Frequently Asked Questions (FAQ’s) that demonstrate the application of the guidelines and rules. As necessary, additional information will be published and posted on TAX’s website, at www.tax.virginia.gov/salestaxholiday.

DEFINITIONS

“Accepting an order” occurs when a retailer has taken an action to fill the order.

“Accessory items” means incidental items worn on the person or in conjunction with clothing.

“Actions to fill an order” include placing an in-date stamp on a mail order or assigning an order number to a telephone or Internet order.

“Clothing” means any article of wearing apparel and typical footwear intended to be worn on or about the human body. Clothing does not include sporting equipment, footwear designed primarily for athletic activity, or apparel designed for protective use and not usually considered appropriate for everyday wear.

“Immediate shipment” means an order in which the customer does not request delayed shipment. An order is for immediate shipment notwithstanding that the shipment may

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

be delayed because of a backlog of orders or because stock is currently unavailable or on back order by the seller.

“Layaway” means a transaction in which merchandise is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and at the end of the payment period, receives the merchandise. An order is accepted for layaway by the seller when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser.

“Pay for” means that the seller receives cash, a credit card number, a debit authorization, a check or a money order.

“Protective equipment” means items that are intended for human wear and designed to protect the wearer against injury or disease or against damage or injury to other persons or property but are not suitable for general use.

“Rain check” means the seller allows a customer to purchase an item at a certain price at a later time because the particular item is out of stock.

“Rebate” means a refund of an amount of money by the manufacturer of a product to the retail purchaser of the product.

“Qualifying item” means any item of a type, such as clothing or school supplies, that qualifies for a sales tax holiday exemption.

“Sales tax holiday” means a temporary period when sales taxes are not collectible or payable on all or a specific class of purchases.

“School art supply” means an item commonly used by a student in a course of study for artwork. For purposes of the sales tax holiday, the term “school art supply” is included under “school supply.”

“School computer supply” means an item commonly used by a student in a course of study in which a computer is used. For purposes of the sales tax holiday, the term is not included under “school supply.”

“School instructional material” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. For purposes of the sales tax holiday, the term “school instructional material is included under “school supply.”

“School music supply” means an item commonly used by a student in a course related to the study of music. For purposes of the sales tax holiday, the term “school music supply” is included under school supply.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

“School supply” means an item commonly used by a student in a course of study. For purposes of the sales tax holiday, the term includes “school art supply”, “school instructional material”, and “school music supply”. The term does not include, “school computer supply.”

“Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. “Sport or recreational equipment” is not included within the definition of “clothing,” and does not qualify for the sales tax holiday.

“Textbook” means a book that is designed to teach a subject in elementary schools, high schools, and institutions of higher learning. For purposes of the sales tax holiday, novels and other similar books, which may be used for extracurricular reading, are not included under this definition.

EXEMPT PROPERTY UNDER THE SALES TAX HOLIDAY

Sales of the following items are exempt from sales or use tax during the sales tax holiday period:

- Each article of clothing or footwear with a selling price of \$100 or less per article; and
- Each school supply item with a selling price of \$20 or less per item.

Articles of clothing include any article of wearing apparel and typical footwear intended to be worn on or about the human body. Clothing does not include accessories, sporting equipment or footwear designed primarily for athletic activity or apparel designed primarily for protective use and not usually considered appropriate for everyday wear.

School supply items are limited to items that are commonly used by a student in a course of study and include “school art supplies,” “school instructional materials, and school music supplies.” School supply items **do not include computers** or any “school computer supplies.”

The detailed listing of items exempt under the sales tax holiday can be found in Appendices A and B of these guidelines.

ABSORPTION OF TAX

Virginia law requires dealers to collect the sales tax from their purchaser on the sale of all taxable items and remit those taxes. Virginia law does not generally permit retailers to advertise that they will absorb all or any part of the sales or use tax, or that they will relieve the purchaser, consumer, or lessee of the payment of all or any portion of the tax. These prohibitions do not apply during this sales tax holiday period, during the October sales tax holiday period for Energy Star and WaterSense qualified items, or

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

during the May sales tax holiday period for hurricane preparedness items. Neither do these prohibitions apply during the fourteen days immediately preceding the commencement of any of the three sales tax holidays listed above. During these periods, dealers may advertise that they will absorb the tax on any or all non-qualifying items during the applicable sales tax holiday period for clothing and school supplies, Energy Star and WaterSense sales tax holiday period, or hurricane preparedness sales tax holiday period. The dealer must advertise that absorption will take place during the holiday, and may not advertise that absorption will take place prior to or following the sales tax holiday period.

For purposes of this sales tax holiday, fourteen days prior to the first Friday in August, dealers may begin advertising that they plan to absorb the sales tax for non-qualifying items during the three-day sales tax holiday weekend and may continue such advertising until the conclusion of the sales tax holiday. When a dealer elects to absorb such tax, he is liable for payment of the tax in the same manner as he is for tax collected from a purchaser.

Example 1: Retailer's inventory includes televisions, camcorders, and similar electronics. Although none of Retailer's inventory constitutes clothing or school supplies under the Virginia sales tax holiday definition, Retailer still wishes to participate in the sales tax holiday. Retailer decides to absorb the 5% sales tax on his entire inventory during the sales tax holiday. To notify customers, he begins advertising of this intention 10 days before the sales tax holiday begins. Because Retailer is within the 14-day time period for advertising absorption, his advertisement does not violate Virginia law.

Example 2: Retailer's inventory includes televisions, camcorders, and similar electronics. Although none of Retailer's inventory constitutes clothing or school supplies under the Virginia sales tax holiday definition, Retailer still wants to participate in the sales tax holiday. Fourteen days before commencement of the sales tax holiday, Retailer distributes circulars stating, "Come in **today** and we'll absorb the sales tax on our entire inventory in preparation for Virginia's first sales tax holiday." Although Retailer is permitted to advertise absorption at any time during the fourteen days preceding commencement of the sales tax holiday, because Retailer advertised that absorption would take place prior to the sales tax holiday, he is in violation of Virginia law.

For purposes of absorption, in order for a dealer to determine the amount of taxes he must remit to TAX, the amount absorbed equals the amount of sales tax the customer would have otherwise had to pay. For example, if a dealer wishes to absorb the tax on a non-qualifying school supply costing \$24.99, he may charge the customer the regular \$24.99 price, but is responsible for remitting the 5% (or \$1.25) sales tax. This is the amount of tax the customer would normally have been required to pay had the dealer not elected to absorb the sales tax for that item.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

During the sales tax holiday, dealers are permitted to absorb the sales tax on all other non-qualifying items sold during the holiday. Dealers may absorb the sales tax on their entire non-qualifying inventory, a portion of their non-qualifying inventory, or none of their non-qualifying inventory, as they choose. This means that dealers whose entire inventory consists of items that do not qualify for the sales tax holiday exemption may elect to absorb the sales tax on their entire inventory, a portion of their inventory, or none of their inventory.

Example 1: Retailer A's inventory includes lawnmowers, hand and power tools, and additional home improvement items. None of Retailer A's inventory constitutes clothing or school supplies under the Virginia sales tax holiday definition. Retailer A may elect to absorb the sales tax on his entire inventory, on the lawnmowers only, on the hand and power tools only, on all the other home improvement items, or on a combination of these. He may also elect not to absorb the sales tax on any of the items in his inventory.

Example 2: Retailer B owns a sporting goods store selling clothing as well as sports and recreational equipment. Much of the clothing in Retailer B's store constitutes clothing under the Virginia sales tax holiday definition, and qualifies for the exemption. Retailer B may elect to absorb the sales tax on all, a portion, or none of the non-qualifying sporting and recreational equipment.

Example 3: Retailer C's department store sells clothing, shoes, accessories, perfumes, and appliances. Among his merchandise, Retailer C offers a pair of shoes for \$150, a shirt for \$75, accessories for \$10, and perfume for \$30. The \$75 shirt qualifies for the sales tax holiday exemption. Although the \$150 shoes constitute "clothing" under the sales tax holiday definition, they do not qualify for the exemption because they exceed the \$100 clothing price limitation. The perfume and accessories do not qualify for the exemption. Retailer C may elect to absorb the sales tax on any or all of the items that do not qualify for the sales tax holiday exemption, including the shoes, accessories, and perfume. If Retailer C elects to absorb the sales tax on the \$150 shoes, he must pay the sales tax on the total price of the shoes, and not simply the amount by which the actual price exceeds the \$100 sales tax holiday threshold.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

SPECIFIC ISSUES

The following information sets out the application of tax with respect to various matters concerning sales during the sales tax holiday period.

Sales Tax Holiday Period/Timing

Dates of the sales tax holiday

The sales tax holiday for clothing and school supplies is a recurring event that begins each year at 12:01 a.m. on the first Friday in August and ends at midnight on the Sunday immediately following.

Fourteen days prior to the first Friday in August, dealers are also permitted to advertise that during the sales tax holiday, they will absorb the tax on all or a portion of non-qualifying items if they elect to do so.

Different time zones

The time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and a seller is located in another.

Exchanges

The procedure for an exchange in regards to a sales tax holiday is as follows:

- If a customer purchases a qualifying item during the exemption period, but later exchanges the item for a similar qualifying item, even if a different size, different color, or other feature, no additional tax is due, even if the exchange is made after the exemption period.
- If a customer purchases a qualifying item during the exemption period, but after the exemption period has ended, the customer returns the item and receives credit on the purchase of a different item, whether or not the different item qualifies for the exemption, the appropriate sales tax is due on the sale of the newly purchased item.
- If a customer purchases a qualifying item before the exemption period, but during the exemption period, the customer returns the item and receives credit on the purchase of a different item of eligible property, no sales tax is due on the sale of the new item if the new item is purchased during the sales tax holiday period.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

Layaway Sales

The sale of a qualifying item under a layaway sale is exempt from tax if the purchaser selects the item and the retailer accepts the order for the item during the holiday period, even if delivery occurs after the holiday period. Subsequent payments are also exempt. Items placed on layaway prior to the sales tax holiday are eligible for the sales tax holiday exemption only if final payment is made by, and the property is given to the purchaser during the exemption period. In the latter instance, retailers who have already remitted the tax are entitled to take a credit on the following month's return, provided they give the customer a credit for any taxes that were added to the original base price of the item prior to the sales tax holiday.

Example 1: Customer places 2 shirts on layaway during the three-day sales tax holiday, and pays a \$50 deposit on the shirts at that time. The shirts are priced at \$75.00 each. Customer makes a subsequent \$50 payment one month later. Customer makes the final payment of \$50 and receives the shirts two months after the sales tax holiday. The initial \$50 payment and the subsequent payments are not subject to sales and use tax because the shirts individually met the threshold cost of \$100, and the layaway was made during the sales tax holiday period.

Example 2: Customer places 2 shirts, costing \$75.00 each on layaway one month before the sales tax holiday. At the time the layaway order is made, Retailer properly adds the \$7.50 sales tax to the total cost for the two shirts. Customer makes weekly payments on the total \$157.50 cost, and makes the final payment and pickup during the three-day sales tax holiday. Customer's payments are not subject to sales and use tax because the final payment was made during the sales tax holiday. Customer is entitled to a deduction of \$7.50 from the tax-included total cost of the two shirts. Provided Retailer gives Customer such a deduction, and provided he has already remitted the tax to TAX, Retailer is entitled to take a credit on the following month's return.

Rain checks

An item purchased pursuant to a rain check is eligible for the exemption if the item is purchased during the sales tax holiday period, regardless of when the item is actually delivered. Issuance of a rain check during the exemption period does not qualify eligible property for the exemption if the property is actually purchased after the exemption period.

Return of eligible items

For a 60-day period immediately after the sales tax holiday exemption period, when a customer returns an item that would qualify for the exemption, no credit

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

for or refund of sales tax shall be given unless the customer provides a receipt or invoice that shows tax was paid, or the seller has sufficient documentation to show that tax was paid on the specific item. This 60-day period is set solely for the purpose of designating a time period during which the customer must provide documentation that shows that sales tax was paid on returned merchandise. The 60-day period is not intended to change a seller's policy on the time period during which the seller will accept returns.

Sales Price

Articles normally sold as a unit

Items that are generally sold as a unit, such as a pair of shoes, must continue to be sold as a unit and cannot be priced separately and sold as individual items to render these items subject to the exemption.

Example: A pair of shoes is sold for \$120. The shoes do not qualify for the sales tax holiday exemption because they exceed the price limit of \$100 per item. The retailer cannot price each shoe at \$60.00 and thereby exempt the sale of the pair of shoes from sales tax.

Buy one, get one free or for a reduced price

Where items are sold under a "buy one, get one free" or "buy one, get one for a reduced price" special, a retailer cannot average the total price of items advertised as buy one, get one free/for a reduced price in order to qualify the items for exemption.

Example: Retailer A advertises two calculators, originally priced at \$30.00 each as "buy one, get one free." Because Calculator 1 exceeds the price threshold for school supplies, it does not qualify for the sales tax holiday exemption. Because Calculator 2 is "free," it qualifies for the exemption, and no sales tax is due on the second calculator. Retailer A may not average the total price of the two calculators ($\$30 + \$0 = \$30 / 2 = \15.00) to bring the two calculators within the cost threshold.

Example: Retailer B advertises two calculators, originally priced at \$25.00 each as "buy one, get one for half off." Because Calculator 1 exceeds the price threshold for school supplies, it does not qualify for the sales tax holiday exemption. Because Calculator 2 is "half-off (\$12.50)," it qualifies for the exemption, and no sales tax is due on the second calculator. Retailer B may not average the total price of the two calculators ($\$25.00 + \$12.50 = \$37.50 / 2 = \18.75) to bring the two calculators within the sales price threshold.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

Coupons and discounts

Discounts: A discount given by a retailer constitutes a reduction in sales price and the amount of the discount is deducted before determining whether an item is eligible for the exemption.

Example: Customer A wishes to purchase a calculator, regularly priced at \$29.95, but the retailer has offered this item on sale for \$19.99. This constitutes a reduction in the sales price, and brings the amount under the \$20.00 threshold. The calculator is not subject to sales tax.

Store Coupon: A coupon given by a retailer constitutes a reduction in sales price and the amount of the discount is deducted before determining whether an item is eligible for the exemption. A coupon that reduces the sales price is treated as a store coupon if the seller is not reimbursed for the coupon amount by a third-party.

Example: Customer B receives a 50% off coupon issued by a retailer, which she uses towards the purchase of a pair of shoes priced at \$120.00. This constitutes a reduction in the sales price, and brings the amount under the \$100 threshold. The shoes are not subject to sales tax.

Manufacturer's Coupons: A manufacturer's coupon or third party coupon constitutes a reduction in sales price **for purposes of the sales tax holiday for clothing and school supplies and the sales tax holiday for hurricane preparedness items only**. During the remainder of the year, a manufacturer's coupon or third party coupon does not constitute a reduction in the sales price of an item. Instead, the value of the manufacturer's coupon is added to the amount paid to determine the selling price.

Example: During the back-to-school sales tax holiday, Customer B uses a manufacturer's coupon for \$2.00 off when he purchases special manila paper, regularly priced at \$21.99. Because the manufacturer's coupon constitutes a reduction in the sales price of the manila paper, the cost of the paper becomes \$19.99 and the paper qualifies for the sales tax holiday exemption. If the manufacturer's coupon is used prior to or after the sales tax holiday, for the same manila paper, costing \$21.99, the coupon does not constitute a reduction in the sales price of the paper, and the retailer must collect sales tax on the full selling price, including the \$2.00 value of the manufacturer's coupon.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

Gift certificates

A gift certificate may not be used to reduce the cost price of an item in order to render that item eligible for exemption. However, eligible items sold and delivered during the sales tax holiday period using a gift certificate qualify for the exemption.

Example 1: Customer A has a gift certificate with a particular shoe retailer in the amount of \$25.00. Customer A wishes to purchase shoes that cost \$120.00. The cost of the shoes exceeds \$100.00, and the entire price is therefore subject to the retail sales and use tax. The fact that the customer has a gift certificate in the amount of \$25.00 does not decrease the cost of the shoes to \$95.00, thereby bringing the shoes under the threshold amount, and qualifying them for the exemption.

Example 2: Customer B has a gift certificate with a particular shoe retailer in the amount of \$25.00. Customer B wishes to purchase shoes that cost \$75.00. Customer B can use the gift certificate during the sales tax holiday to purchase the shoes, and the shoes can be purchased tax-free.

Rebates

A rebate occurs after a sale and does not constitute a reduction in sales price. The amount of the rebate is not considered when determining whether an item is eligible for an exemption.

Repairs and alterations

Separately stated charges for repairs and alterations to apparel, clothing, and garments are not included in the base price of the article of clothing, and do not affect an article of clothing's eligibility for exemption during the sales tax holiday. Virginia law exempts both separately stated charges for services rendered in repairing property sold and separately stated charges for alterations to apparel, clothing, and garments.

Example: Retailer, a bridal boutique, sells formal attire, including tuxedos, wedding gowns and formal dresses. Customers A and B purchase prom dresses for \$75.00 and \$125.00 respectively. The boutique charges an additional \$30.00 for alterations. Because Customer A's dress costs \$75.00, the additional \$30.00 alterations are not included in the base price of the dress, and does not affect the item's eligibility for the sales tax holiday, and Customer A may purchase both the dress and the alteration services tax-free. Since Customer B's dress exceeds the \$100 threshold, she is subject to tax on the purchase of the dress, but the separately stated \$30.00 alteration charges are not subject to tax.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

Shipping and handling charges

Under Virginia law, sales price does not include separately stated charges for the delivery of property sold by the seller to the purchaser, but does include separately stated charges for handling and service charges. Generally, for transactions in which the shipping and handling charges are combined, the charges are treated as “handling” charges and constitute part of the base price of the item.

During the three-day sales tax holiday period, shipping and handling charges are not included in the base price of the underlying item if that item qualifies for the sales tax holiday exemption. Shipping and handling charges are not used to determine whether an item meets the \$20 threshold for school supplies or the \$100 threshold for clothing and footwear. Provided the underlying qualifying item meets the required threshold amount, that item qualifies for the sales tax holiday, and the associated shipping and handling charges are also exempt from taxation. If an item exceeds the threshold requirements or is otherwise ineligible for exemption during the sales tax holiday, the shipping and handling charges are included in the base price of the item, and the entire price is subject to sales tax.

Example 1: During the sales tax holiday, Customer A purchases and has Retailer deliver a book bag costing \$19.95 to his home. Retailer imposes a separate shipping and handling charge of \$2.00. Because the book bag falls under the \$20.00 threshold amount, the additional \$2.00 shipping and handling charge is not added to the base price of the item, and the book bag qualifies for the sales tax holiday. The charges associated with shipping and handling is also exempt from sales tax. The threshold cost of the item is not affected by the \$2.00 shipping and handling charge.

Example 2: Customer B purchases a dress online priced at \$95.00 during the sales tax holiday. The Internet retailer imposes a shipping fee of \$10.00 and a separate handling fee of \$4.00. The separately stated shipping charges are not part of the base price of the item, since separately stated charges for the delivery of property in Virginia are never added to the sales price. Because the price of the dress falls below the \$100 threshold for clothing and footwear, during the sales tax holiday only, the handling fee is not included as part of the base price of the item, and the handling fee is not subject to tax.

Sales of two eligible items for one price

If two or more qualifying items are placed together as a set and offered for one price that exceeds the cost threshold of \$20 for school supplies or \$100 for clothing, the items in question do not qualify for the sales tax holiday.

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

Sales of exempt and taxable items for one price

If items qualifying for the exemption are normally sold together with merchandise that does not qualify for the exemption as a set or single unit, the full price is subject to sales tax. This is the policy even if the collective price of the items falls below the sales tax holiday required threshold cost.

Example: Retailer offers a shirt, handkerchief, and tie combination as a set for \$85. Because the set contains a handkerchief (an ineligible item), sales tax is due on the full \$85 cost of the set, even though the set contains eligible items and the price of the entire set falls below \$100.

Threshold

When the sales price of an item is greater than the ceiling threshold amount set for the sales price of an exempt item, whether \$20 for school supplies or \$100 for clothing and footwear, sales or use tax is due on the entire charge for the item. The sales price is not reduced by the threshold amount.

Example: A book bag is sold for \$25. The book bag constitutes a school supply, but does not qualify for the exemption, since it exceeds the price threshold by \$5. The entire sales price of the book bag is subject to tax, and not just the amount that exceeds the \$20 price threshold.

Dealer Participation and Administration

Participation in the sales tax holiday

Exempt school supplies and clothing

During the sales tax holiday, the law exempts qualifying school supplies and clothing from the Retail Sales and Use Tax. If a dealer fails to allow the exemption, such dealer is in violation of the law. Any dealer collecting the sales or use tax on nontaxable transactions must remit to TAX such erroneously or illegally collected tax unless he can show that the tax has been refunded to the purchaser or credited to the purchaser's account.

Absorption of the tax

During the sales tax holiday, dealers are permitted to absorb the sales tax on items that are sold during the holiday but do not qualify for the exemption. Businesses that carry exempt items and businesses that do not carry exempt items can both elect to absorb the tax. This provision is **voluntary**; however, any tax absorbed on non-qualifying items must be paid to the Tax Commissioner. Dealers are not required to absorb the tax

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

on those items that do not qualify for the sales tax exemption, but are permitted to do so if they wish.

Mail order, telephone, and Internet sales

Items purchased online, by mail order, or by telephone are treated as exempt if 1) the item is both delivered to and paid for by the customer during the exemption period; or 2) the customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period.

Dealer Recordkeeping

Refund of tax erroneously collected by retailer

In order to obtain a refund of tax paid in error, a customer must return to the store with his sales receipt and obtain a refund from the retailer. The retailer can claim a credit for the tax refunded to customers on his sales and use tax return, provided he remitted the tax.

Records and reporting

Retail dealers are not required to obtain an exemption certificate or other certification from purchasers of qualified school supplies and clothing during the sales tax holiday period. Retailers must maintain records that clearly identify the date on which qualified items are sold and the type, quantity and sales price of such tax-exempt merchandise for a period of three years following the sales tax holiday period. These records must identify the items that were sold subject to the retail sales tax and those that were sold exempt of the tax. The records may be in the form of register tapes, cash tickets, or whatever the dealer customarily uses to identify sales, provided that the items sold and taxes charged and not charged are clearly identifiable. Retail dealers should include the sales price of qualifying school supplies and clothing items sold during the sales tax holiday period on the line on which all other exempt sales are listed on the monthly report.

Retail dealers who elect to absorb the tax on non-qualifying items must be able to demonstrate that the proper amount of tax has been accrued and remitted.

Special ineligible transactions

Custom orders

If a vendor places a special order for a customer that must be custom-made or manufactured for future delivery after the holiday, the merchandise is not

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

considered available for immediate shipment, and the transaction is not eligible for the sales tax holiday exemption.

Rentals

Rental items are not eligible for the exemption, regardless of whether the items are rented out and paid for during the sales tax holiday period.

ADDITIONAL INFORMATION

These guidelines are available online in the Tax Policy Library section of TAX's website, located at www.tax.virginia.gov and TAX's specific holiday site, www.tax.virginia.gov/salestaxholiday. For additional information, please contact the Department's Office of Customer Services at (804) 367-8037, or send inquiries to the Department of Taxation, P.O. Box 715, Richmond, Virginia 23218-0715.

Approved:



Janie E. Bowen
Tax Commissioner

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

APPENDIX A

List of School Supplies Eligible for the Exemption

“School supply,” means an item that is commonly used by a student in a course of study. For purposes of the sales tax holiday, the term includes, “school art supply,” “school instructional material,” and “school music supply.” The term does not include computers or “school computer supplies”, and such items may not be purchased exempt of the tax.

The following is an **all-inclusive** list of items that are included in the term “school supply” and are therefore exempt from tax during the sales tax holiday period, provided their sales price is \$20 or less per item. Only the following items are exempt as school supplies. Items need not be intended for use in school or in connection with a school activity to be eligible for the exemption.

- Binder pockets
- Binders
- Blackboard chalk
- Book bags
- Calculators
- Cellophane tape
- Clay and glazes
- Compasses
- Composition books
- Crayons
- Dictionaries and thesauruses
- Dividers
- Erasers (including dry erase marker erasers and dry erase marker cleaning solution)
- Folders: expandable, pocket, plastic, and manila
- Glue, paste, and paste sticks
- Highlighters
- Index card boxes
- Index cards
- Legal pads
- Lunch boxes
- Markers (including dry erase markers and dry erase marker kits)
- Musical instruments, musical instrument accessories, and replacement items for musical instruments
- Notebooks
- Paintbrushes for artwork
- Paints (acrylic, tempera, and oil)
- Paper: loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board and construction paper

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

- Pencil boxes and other school supply boxes
- Pencil sharpeners
- Pencils
- Pens
- Protractors
- Reference books
- Reference maps and globes
- Rulers
- Scissors
- Sheet music
- Sketch and drawing pads
- Textbooks
- Watercolors
- Workbooks; and
- Writing tablets

“School computer supply” is an item commonly used by a student in a course of study in which a computer is used. For purposes of the sales tax holiday, the term “school computer supply” is not included under the term, “school supply.” Any school computer supply is ineligible for exemption during the sales tax holiday. The following is a list of examples that constitute school computer supplies:

- Computer storage media; diskettes; compact disks
- Handheld electronic schedulers
- Personal digital assistants
- Printers for computers; and
- Printer supplies for computers; printer paper, printer ink

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

APPENDIX B

List of Property Eligible for Exemption

Clothing

“Clothing” means any article of wearing apparel and typical footwear intended to be worn on or about the human body. Clothing does not include sporting equipment or footwear designed primarily for athletic activity or protective use and not usually considered appropriate for everyday wear. These items may not be purchased exempt of the tax.

The following is a list of items that are included in the term “clothing” and are therefore exempt from tax during the sales tax holiday period, provided their sales price is \$100 or less per item. This list is not all-inclusive. Other items meeting the definition of clothing may be purchased exempt of the tax.

- Aprons, household and shop
- Athletic supporters
- Baby bibs and clothes
- Baby receiving blankets
- Bandanas
- Bathing suits, swim trunks, cover-ups and bathing caps
- Beach capes and coats
- Belts and suspenders
- Bibs
- Boots
- Choir and altar clothing
- Clerical vestments
- Coats, jackets, and windbreakers
- Corsets and corset laces
- Costumes (sold not rented)
- Coveralls
- Diapers, children and adult, including disposable diapers
- Dresses
- Ear muffs
- Footlets
- Formal wear for men and women (sold, not rented)
- Fur coats and stoles, shawls and wraps
- Garters and garter belts
- Girdles
- Gloves and mittens for general use
- Golf clothing, caps, dresses, shirts, skirts, pants
- Gym suits and uniforms
- Hats and caps

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

- Hosiery
- Insoles, inserts for shoes
- Jeans
- Jerseys (both athletic and non-athletic)
- Lab coats
- Legwarmers
- Leotards and tights
- Lingerie
- Neckwear, including bow ties, neckties, and scarves
- Nightgowns
- Overshoes and rubber shoes
- Pajamas
- Pantyhose
- Raincoats, rain hats, and ponchos
- Robes
- Rubber pants
- Rubber thong/flip-flops
- Sandals
- Scarves
- Shirts and blouses
- Shoes and shoe laces
- Shorts
- Skirts
- Slacks
- Slippers
- Slips
- Sneakers
- Socks and stockings, including athletic socks
- Steel toed shoes
- Suits
- Suspenders
- Underwear
- Uniforms, athletic and non-athletic
- Vests
- Wedding apparel, including veils (sold not rented)

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

List of Clothing Accessory Items, Protective Equipment and Sports or Recreational Equipment Not Exempt of the Tax

“Clothing accessory items,” means incidental items worn on the person or in conjunction with “clothing.”

The following items are considered to be clothing accessory items and are not eligible to be purchased exempt of the tax. The following list contains examples and is not intended to be an all-inclusive list.

Clothing accessory items

- Briefcases
- Cosmetics
- Fabric, thread, and yarn used to make clothing
- Hair notions, including, but not limited to, barrettes, hair bows, and hair nets
- Handbags
- Handkerchiefs
- Jewelry
- Sun glasses, non-prescription
- Umbrellas
- Wallets
- Watches
- Wigs and hair pieces

“Protective equipment” means items that are intended for human wear and designed to protect the wearer against injury or disease or against damage or injury to other persons or property but are not suitable for general use. “Protective equipment” is not included within the definition of “clothing,” and does not qualify for exemption during the sales tax holiday. The following list contains examples and is not intended to be an all-inclusive list.

Protective Equipment

- Breathing masks
- Clean room apparel and equipment
- Ear and hearing protectors
- Face shields
- Hard hats
- Helmets
- Paint or dust respirators
- Protective gloves
- Safety belts
- Safety glasses and goggles
- Tool belts; and

Sales Tax Holiday for Clothing and School Supplies, Guidelines and Rules

- Welders gloves and masks

“Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. “Sport or recreational equipment” is not included within the definition of “clothing,” and does not qualify for the sales tax holiday. The following list contains examples and is not intended to be an all-inclusive list.

Sport or recreational equipment

- Ballet and tap shoes
- Cleated or spiked athletic shoes
- Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf
- Goggles
- Hand and elbow guards
- Life preservers and vests
- Mouth guards
- Roller and ice skates
- Shin guards
- Shoulder pads
- Ski boots
- Waders
- Wetsuits and fins