PALM BEACH COUNTY THRIFT STORE

CIRCULAR NO. 100
GUIDELINES FOR TAX-EXEMPT AND PARTIALLY-EXEMPT SALES

1. **When is a purchase non-taxable?** Under Florida law, *every* purchase made at the Thrift Store is assumed to be taxable at some rate, unless one of the following conditions exists for a *specific transaction*:

   a) The purchaser holds a current "Annual Resale Certificate" (form DR-13) issued by the Florida Department of Revenue, and the specific purchase is made for resale or rental and no other purpose;

   or

   b) The purchase is for use by an exempt entity holding a valid "Consumer's Certificate of Exemption" (form DR-14) issued by the Florida Department of Revenue, and is made by an authorized representative of the qualifying exempt entity for the organization's customary non-profit activities;

   or

   c) The purchaser is a non-resident (out-of-state) dealer and the tangible personal property purchased will be taken out of state for resale and no other purpose;

   or

   d) The purchaser of a motor vehicle is a non-resident (out-of-state) buyer who is *not* registered as a motor vehicle dealer in his home state, and the vehicle is transported directly out of state by registered motor carrier, but *not* driven out;

   or

   e) The purchaser of an aircraft is a non-resident (out-of-state) buyer who is *not* registered as an aircraft dealer in his home state, and the aircraft will be removed from Florida within 10 days of purchase (longer, if repairs or alterations are first made to the aircraft before leaving Florida);

   or

   f) The purchase is made by an authorized representative of the federal government for federal government use;

   or

   g) The intended use of the item is exempt from sales tax. The difference here is that the exemption does not result from the status of the purchaser (such as a governmental agency or non-profit organization), but rather because the use of the item being purchased is exempt from taxation. This is unlikely to occur, because inventory at the Store is not generally the type that would be exempt. However, the list of such uses is long and diverse, so it's best to call the Department of Revenue Taxpayer Services Main Line at 1-800-488-6800 to verify the specific exemption specified by the purchaser.

   These are the exceptions to the rule that every transaction at the Thrift Store is taxable (at some rate).

2. What does the cashier need to see *at the time of invoicing* to make a non-taxable sale?

a) For sales to a Florida dealer (both motor vehicles and other tangible personal property). Either that the buyer's FABS registration account is already marked as "Exempt" in the Tax Status field and a Florida tax exemption number is shown in the Tax Number field; or a photocopy of a valid form DR-13 ("Annual Resale Certificate") issued by the Florida Department of Revenue. The photocopy must be kept for filing at the Store.

b) For sales to a non-resident (out-of-state) dealer who declares that the tangible personal property purchased will be moved out of state for resale and no other purpose. A notarized affidavit form is available from FAMO (form FAMO 2-101) declaring that the property purchased in Florida will be taken outside the state for resale and no other purpose. This applies to non-resident dealers in general, whether they are engaged in the resale of motor vehicles or other tangible personal property (computers, furniture, electronics, machinery, etc.). A photocopy of the signed form FAMO 2-101 must be kept and attached to the Store copy of the sales invoice. (Some states require dealers to present the original affidavit to their home state tax departments.)

c) For motor vehicle sales to a non-resident (out-of-state) buyer who is *not* a motor vehicle dealer who declares that the vehicle purchased will be moved out of state. A pre-paid Bill of Lading from an interstate for-hire carrier (a company that provides truck transportation of cargo belonging to others and is paid for doing so), specifically identifying the item(s) to be transported, showing an *out-of-state* delivery destination. (A shipper's Export Declaration, in lieu of a Bill of Lading, is required for export outside the United States.) The buyer may *not* take possession of the vehicle, even for the purpose of driving the vehicle to the ship or truck terminal for subsequent transport out of state. One copy of the Bill of Lading (or Export Declaration) must be kept and attached to the Store copy of the sales invoice.

d) For aircraft sales to a non-resident (out-of-state) buyer who is *not* an aircraft dealer who declares that the aircraft will be moved out of state. A notarized affidavit form available from FAMO (form FAMO 2-102) declaring that the non-resident purchaser meets all eight specific conditions listed on the form regarding removal of the aircraft from Florida. The form must be notarized before it can be accepted by the cashier. The original of this form is retained by FAMO for delivery to DOR (Tallahassee); one photocopy is given to the customer, and one photocopy of the form must be kept and attached to the Store copy of the sales invoice.

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e) For sales to an exempt organization. For cash sales, the Store cashier must see 3 things:

- Either that the buyer's FABS registration account is already marked as "Exempt" in the Tax Status field and a Florida tax exemption number is shown in the Tax Number field; or a photocopy of a valid form DR-14 ("Consumer's Certificate of Exemption") issued by the Florida Department of Revenue. The photocopy must be kept for filing at the Store, and the FABS account will be updated accordingly; and

- A letter written on the qualifying organization's letterhead stationery, dated within five (5) days of the sale date, signed by an authorized officer of the organization, identifying by name the individual authorized to make the purchase on behalf of the organization, and declaring that the purpose of the purchase is for use by the qualifying organization and not for personal use of any individual; or a completed "Declaration of Use by Governmental Unit or Exempt Entity for Customary Nonprofit Activities" (form FAMO 2-100) available from FAMO, identifying the purchaser by name, signed and dated by an authorizing representative of the qualifying organization. The written letter or executed declaration form must be kept and attached to the Store copy of the sales invoice; and

- A photo ID of the individual named in the written letter or "Declaration of Use" form above who is authorized to make the purchase on behalf of the organization.

For credit card sales, the card must be issued in the name of the exempt organization. In that case, it is only necessary to see the first item above (evidence of DR-14 tax exemption certificate). However, if the credit card is issued in the name of an individual, the sale is a personal transaction and must be taxed under state tax law, even if the purchaser will subsequently be reimbursed by the tax-exempt organization.

f) For sales to the federal government. The Store cashier must see 2 things:

- Either a letter written on letterhead stationery of a federal agency, signed by an authorized signatory of the federal agency, identifying by name the individual authorized to make the purchase, and declaring that the purpose of the purchase is for use by the federal agency and not for personal use of any individual; or a completed "Declaration of Use by Governmental Unit or Exempt Entity for Customary Nonprofit Activities" (form FAMO 2-100) available from FAMO, identifying the purchaser by name, signed and dated by an authorizing signatory of the federal agency. The written letter or executed declaration form must be kept and attached to the Store copy of the sales invoice; and

- A photo ID of the individual named in the letter or declaration above who is authorized to make the purchase on behalf of the federal agency.

3. **What if a non-resident (out-of-state) buyer can show that he/she is exempt from sales tax at home?**

   With one exception (described below), the tax status of an out-of-state resident in his/her home state is *irrelevant* when it comes to determining whether or not purchases made in Florida are taxable. This is particularly true if the buyer is a non-profit organization or state/local governmental agency in another state (but it could also apply to a non-resident dealer if the dealer is not taking his purchase outside of Florida for resale). Although these buyers might well qualify for tax certificates in Florida, their purchases at the Thrift Store are taxable unless they have applied for and received valid Florida tax certificates (DR-11/DR-13 for dealers or DR-14 for exempt organizations) from the Florida Department of Revenue. There is one exception: see #1c above.

4. **What if the buyer has the required Florida certificates to prove tax-exemption, but didn't bring them with him/her and they aren't already on file with the Store; can the documents be provided later?**

   Under state tax regulations, tax-exempt eligibility *cannot* be established retroactively. If, *at the time of sales invoicing*, the documents listed in question 2 above are not available to the cashier, the transaction should either be delayed until the necessary documents can be supplied for a non-taxable transaction, or the transaction must be taxed at the full rate in effect in Palm Beach County.

5. **Sales to non-resident (out-of-state) dealers may be tax-exempt; does that also apply to sales to other non-residents?** Generally speaking, no. Non-residents who are *not* registered dealers in their home states may make non-taxable purchases through the Store only if:

   a) The purchase is of a motor vehicle that will be transported directly out of Florida by interstate for-hire carrier or international shipper, but *not* driven out. See #1d above; or

   b) The purchase is of a motor vehicle and the state in which the vehicle will be registered does not have a sales tax (requires a completed form DR-123, described below); or

   c) The purchase is of an aircraft that will be removed from Florida within a specified time period and will not be used for commerce inside Florida (requires a completed form FAMO 2-102, described in #2d above).

   Non-resident purchasers of motor vehicles who are *not* registered as motor vehicle dealers in their home states must pay sales tax at their home state rates (up to 6%) if, at the time of purchase, they file with the Store an affidavit available from FAMO (form DR-123) declaring that the motor vehicle will be registered outside Florida within 45 days of purchase.

   (Non-resident purchasers may owe taxes or fees to their home state even when Florida sales tax is paid.

   For example, if the purchaser's home state does not allow a credit for taxes paid to Florida, the purchaser will still be required to pay Florida sales when they purchase and take delivery of a motor vehicle in Florida and will also be required to pay tax to their home state when the vehicle is licensed in their home state. States that impose a sales tax on motor vehicles but do not allow a credit for taxes paid to Florida include Arkansas, Mississippi, and West Virginia.

   Purchasers should contact the taxing authority in their home state to verify whether a credit for taxes paid to Florida will be allowed.)

6. **Where can additional answers be found if necessary?** The state Department of Revenue maintains an on-line law library of tax rules that can be very useful, particularly Rule 12A-1 of the Florida Administrative Code.

   (Go to https://floridarevenue.com/TaxLaw).

Terms and abbreviations used in this document:

1) **Bill of Lading**—A receipt issued by a contract or common carrier signifying acceptance of property owned by others for the purpose of transporting that property on behalf of its owner to another destination.

2) **Contract Carrier or Common Carrier**—A company that provides truck transportation of cargo belonging to others and is paid for doing so.

3) **Dealer**—Unless otherwise specified, any individual or business engaged in sales or rental activity that must be licensed for sales tax collection.

4) **FABS**—Fixed Assets Bidding System, the computerized program used by the Palm Beach County Thrift Store for entering competitive bids on auction items.

5) **FAMO**—Fixed Assets Management Office, a unit of the Palm Beach County Office of Financial Management & Budget, with responsibility for the operation and management of the Palm Beach County Thrift Store.

6) **Nonresident**—A resident of a state other than Florida, or of a foreign country.