Notice of Emergency Rule

DEPARTMENT OF REVENUE
Sales and Use Tax
RULE NO.: RULE TITLE:
12AER18-02 Equipment Used to Generate Emergency Electric Energy
SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 56, Chapter 2018-118, L.O.F., provides an exemption from sales tax paid on equipment used to generate emergency electric energy at nursing homes and assisted living facilities. The exemption can be applied at the time of purchase or through a refund of the tax paid. This requires the creation of a form to be used by taxpayers seeking a refund.
Section 56, Chapter 2018-118, L.O.F., authorizes the Department of Revenue, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering the refund provisions. Given the application period set out in the law, an emergency rule is the most appropriate and expedient means to provide taxpayers with the necessary refund application. This emergency rule incorporates, by reference, Form DR-26SIGEN, Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted Living Facilities, effective May, 2018.
REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized in Section 56, Chapter 2018-118, L.O.F., the promulgation of an emergency rule by the Department to provide forms and instructions to seek a refund of tax paid on qualifying purchases. The promulgation of this emergency rule, incorporating by reference the form used to apply for the refund, ensures that the public is notified by the most appropriate and expedient means regarding the process to elect to use this reporting method.
SUMMARY: Emergency Rule 12AER18-02 incorporates, by reference, Form DR-26SIGEN, Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted Living Facilities, to allow taxpayers to seek a refund of tax on qualifying purchases, as provided by law.
THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Tammy Miller, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone: (850)717-6309.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER18-02 Equipment Used to Generate Emergency Electric Energy.

(1) Form DR-26SIGEN, Application for Refund – Sales Tax Paid on Generators for Nursing Homes or Assisted Living Facilities (N. 05/18), is hereby incorporated by reference as paragraph (24) of Rule 12A-1.097. F.A.C. No further changes are made to this rule.

(2) This form is available, without cost, by one or more of the following methods: 1) downloading the form from the Department's website at www.floridarevenue.com/forms; or, 2) calling the Department at (850)488-6800 Monday through Friday (excluding holidays); or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(3) To document the exemption at the time of purchase, the purchaser must provide the selling dealer with an affidavit certifying the equipment will be used in the manner prescribed by law. The following is a suggested format of the affidavit:

Suggested Affidavit
Purchase of Equipment to Generate Emergency Electric Energy
Exempt Under Section 56, Chapter 2018-118, Laws of Florida

I, _____, hereby affirm that the equipment for which I seek an exemption will only be used to generate emergency electric energy at a nursing home facility as defined in s. 400.021(12), Florida

Statutes, or an assisted living facility as defined in s. 429.02(5), Florida Statutes. I understand that a person who furnishes a false affidavit to a dealer or to the Department of Revenue is subject to a mandatory penalty of 200% of the evaded tax, pursuant to s. 212.085, Florida Statutes, in addition to being liable for fine and punishment as provided by law for a conviction of a felony of the third degree, as provided in ss. 775.082, 775.083, or 775.084, Florida Statutes.

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

_____

Signature

_____

Facility Name

_____

Facility Address

_____

Date

This rule shall take effect upon filing.

Rulemaking Authority s. 56, Ch. 2018-118, L.O.F. Law Implemented s. 56, Ch. 2018-118, L.O.F. History–New_____

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.