

# DECLARATION OF EMERGENCY

## Department of Revenue Policy Services Division

### Annual Louisiana Second Amendment Weekend Sales Tax Holiday (LAC 61:I.4425)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, and R.S. 47:1511, which allows the department to make reasonable rules and regulations, the Secretary hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective September 1, 2009, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to allow the secretary to provide needed information to Louisiana taxpayers anticipating the Annual Louisiana Second Amendment Weekend Sales Tax Holiday. This sales tax holiday is set for the first consecutive Friday through Sunday of September as enacted by Act 453 of the 2009 Regular Session of the Legislature. Act 453 known as the Annual Louisiana Second Amendment Weekend Holiday Act became effective on July 9, 2009.

The state and local sales and use tax exemption available only during the Annual Louisiana Second Amendment Weekend Sales Tax Holiday applies to an individual's purchase of firearms, ammunition and hunting supplies. The sales and use tax exemption is available only for an individual's purchase and is not available for businesses or business purchases. Consumer purchases do not include the purchase of animals for hunting. This Emergency Rule details which consumer purchases are eligible for state and local sales and use tax exemption during the Annual Louisiana Second Amendment Weekend Sales Tax Holiday and when these purchases are to occur.

#### Title 61

#### REVENUE AND TAXATION

#### Chapter 44. Sales and Use Tax Exemptions.

#### §4425. Annual Louisiana Second Amendment Weekend Sales Tax Holiday

A. Act 453 of the 2009 Regular Session of the Legislature provides an exemption of state and local sales and use taxes on consumer purchases of firearms, ammunition and hunting supplies. This sales tax holiday will occur each calendar year on the first consecutive Friday through Sunday of September. The Annual Louisiana Second Amendment Weekend Sales Tax Holiday begins at 12:01 a.m. on that Friday and ends at 12 midnight on the following Sunday. During this weekend the sales and use tax levied by the state and its political subdivisions shall not apply to the sales price or cost price of any consumer purchases of firearms, ammunition and hunting supplies.

#### B. Definitions

*Ammunition*—any projectile with a fuse, propelling charges or primers which is fired from a firearm or gun, which may be legally sold or purchased in Louisiana.

*Consumer Purchases*—a purchase by an individual of firearms, ammunition and hunting supplies. Consumer

purchases do not include the purchase of animals, such as dogs.

*Firearm*—a shotgun, rifle, pistol, revolver, or other handgun, which may be legally sold or purchased in Louisiana..

*Hunting Supplies*—tangible personal property used for and designed for hunting. Hunting supplies include:

a. archery items used for hunting such as bows, crossbows, arrows, quivers and shafts;

b. off-road vehicles such as all terrain vehicles designed and intended primarily for hunting. The exemption does not apply to golf carts, go-carts, dirt bikes, mini-bikes, motorcycles, tractors, motor vehicles which may be legally driven on the streets and highways of Louisiana, or heavy equipment such as cranes, forklifts, backhoes and bulldozers.;

c. vessels such as airboats and pirogues designed and intended for hunting;

d. accessories designed to be used for hunting;

e. animal feed that is manufactured and marketed as being for consumption primarily by game which can be legally hunted. This does not include food for animals kept as pets;

f. apparel such as safety gear, camouflage clothing, jackets, hats, gloves, mittens, face masks and thermal underwear manufactured and marketed as being primarily for wear or use while hunting;

g. hunting shoes or boots designed and used for hunting.;

h. bags to carry game or hunting gear;

i. float tubes only if purchased to be used for hunting;

j. binoculars only if purchased to be used for hunting;

k. tools that are manufactured and marketed as being primarily for use in hunting;

l. firearm and archery cases;

m. firearm and archery accessories;

n. range finders;

o. knives that are manufactured and marketed as being primarily for use in hunting. This excludes the purchase of knives by an individual to be used for household, business or other recreational use;

p. decoys;

q. tree stands;

r. blinds;

s. chairs to be used for hunting. This excludes purchases by an individual of chairs or other furniture for household, business or other recreational use;

t. optics such as rifle scopes and impact resistant glasses for shooting;

u. hearing protection gear and enhancements;

v. holsters;

w. belts that are manufactured and marketed as being primarily for use in hunting;

y. slings; and

z. miscellaneous gear that is manufactured and marketed as being primarily for use in hunting. This includes other hunting-related gear or supplies not previously listed. This excludes the purchase of toy guns and vessels or off road vehicles utilized as children's toys.

C. During the Annual Louisiana Second Amendment Weekend Sales Tax Holiday, a consumer's purchase will be

eligible for the state and local sales and use tax exemption, if one of the following occurs:

1. Title to or possession of firearms, ammunition and hunting supplies is transferred from a selling dealer to a purchaser.

2. A customer selects an eligible item from the selling dealer's inventory for layaway that is physically set aside in the selling dealer's inventory for future delivery to that customer.

3. The customer makes final payment and withdraws an item from layaway that might have been placed on layaway before the Annual Louisiana Second Amendment Weekend Sales Tax Holiday.

4. The customer orders and pays for an eligible item and the selling dealer accepts the order for immediate shipment, even if delivery is made after the time period provided for in §4425.A, provided that the customer has not requested delayed shipment.

D. Returns and rain checks of firearms, ammunition and hunting supplies during the Annual Louisiana Second Amendments Weekend Sales Tax Holiday are to be handled as follows:

1. Rain Checks. Purchases of eligible items made with a rain check issued before time period provided for in §4425.A will qualify for the exemption, regardless of when the rain check was issued. If a rain check is issued during the time period provided for in §4425.A but the eligible item is purchased after the time period, then the item will not qualify for the exemption.

2. Return and Exchange for an Identical Item. When a customer purchases an eligible item during the time period provided for in §4425.A, returns it without additional cash consideration after such time period and exchanges it for an essentially identical item of different size, caliber, color or other feature, then no additional tax is due.

3. Return and Exchange for a Non-Identical Item. When a customer purchases an item eligible for the sales tax exemption during the time period provided for in §4425.A, returns it after the time period set forth in §4425.A and then receives credit on the purchase of a different item, the sales tax is due on the purchase of the new item.

4. Return of an Eligible Item upon which Sales Tax was Charged and Paid. If a customer purchases an eligible item, pays sales tax on it and returns it within 60 days following the time period set forth in §4425.A, then the retailer can only issue a reimbursement, credit, or refund of sales tax on the item, only when the customer has a receipt or invoice indicating the sales tax was paid. A retailer may also issue a refund, if there is sufficient documentation indicating that sales tax was paid on the specific item. The 60 day time period does not affect a retailer's policy with regard to a customer's return of purchased merchandise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

Cynthia Bridges  
Secretary