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State and Local Tax Alert: Vendors Need to Prepare for Ohio's Upcoming Ohio Sales Tax Holiday

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Ohio's one-time sales tax holiday starts on Friday, August 7, 2015 at 12:01 a.m. and ends on Sunday, August 9, 2015 at 11:59 p.m. This coincides with back-to-school shopping and is aimed only at those items typically purchased during that time. Vendor compliance with this holiday is mandatory.

During the holiday, the following categories of items are exempt from sales and use tax:

- Clothing priced at \$75 or less. Clothing is defined as "all human wearing apparel suitable for general use," with specific examples and exceptions. It does not include, among other things, clothing accessories and sports or recreation equipment.
- School supplies priced at \$20 or less. School supplies are defined as items "commonly used by a student in a course of study" and includes only specifically enumerated items such as crayons, book bags, and notebooks.
- School instructional material priced at \$20 or less. School instructional material includes only reference books, reference maps and globes, textbooks, and workbooks.

Items used in a trade or business are not exempt during this holiday.

The price limits apply on a per-item basis, and there is no limit on the number of items a person can purchase tax-free. Individual items with a selling price above those amounts will remain fully taxable.

The Ohio Department of Taxation has extensive guidance on its [website](#), including a frequently asked questions section. Vendors should find this guidance very helpful. Here is some information from the Department's website that caught our attention:

1. Items advertised as "buy one, get one free" cannot be averaged in order to qualify for the exemption. The price of the purchased item determines whether it is subject to tax.

2. Retailers may not split items that are normally sold together in order to fall under the cost threshold (e.g., sell two shoes each for half the price of the pair).
3. Coupons/Rebates: If a retailer offers a coupon or discount that reduces the price of an eligible item below the threshold, the item will qualify for the sales tax exemption. However, neither a manufacturer's coupon nor a rebate reduces the price for purposes of determining whether the item is exempt.
4. The exemption applies to items purchased via mail, telephone, email, and the internet if the purchaser orders and pays for the item during the holiday even if delivery is made after the holiday ends.
5. Qualifying items either placed on or picked up from layaway during the holiday period are exempt from sales tax. More narrowly, qualifying items procured pursuant to rain checks are only eligible for the sales tax exemption if the consumer redeems the rain check during the holiday period.
6. Exchanges: Qualifying products purchased during the holiday period and later exchanged for the same item in a different size or color remain exempt from sales tax, even if the exchange occurs after the holiday period. Conversely, if the post-holiday exchange is for a different item, the retailer must charge sales tax on the sale of the newly purchased item, even if it would have been exempt during the holiday period. Finally, if a consumer buys a qualifying item before the holiday, returns that item during the holiday period, and receives credit for that return against the purchase of a different qualifying item, the vendor must credit the consumer for the sales tax previously paid on the returned item.
7. Shipping/handling: For products shipped to customers, shipping and handling charges are taxable only to the extent that the purchase includes taxable items. If all of the items in a shipment are exempt, then the shipping and handling charges are not taxable. If, however, the shipment includes both taxable and exempt items, then the seller should allocate the shipping and handling charges among the items in proportion to their price, and charge sales tax based on the shipping and handling charges allocated to the taxable items.

If you have questions or concerns about Ohio's Sales tax holiday, you may contact any of the following Vorys attorneys: Tony L. Ehler, (614) 464-8282, tlehler@vorys.com; David A. Froling, (614) 464-3022, dafroling@vorys.com; John S. Petzinger, (614) 464-5696, jspetzinger@vorys.com; Chris J. Clements, (614) 464-5427, cjclements@vorys.com.