



Executive Director  
Marshall Stranburg

**QUESTION:** Is the sale and installation of a cemetery monument subject to sales and use tax?

**ANSWER:** No sales tax is due on the sale of a monument or a headstone to be installed at the purchaser's designated location. When a provider of burial services or monuments, such as funeral homes or sellers of monuments, purchases items used in providing burial services or installing monuments, the provider is required to pay tax on the cost of those items used or installed.

August 29, 2013

Re: Technical Assistance Advisement – TAA 13A-020  
Sales and Use Tax – Cemetery Monuments  
Subsection: 212.08(2)(7), Florida Statutes (F.S.)  
Rules: 12A-1.035, Florida Administrative Code (F.A.C.)  
Petitioner: XXX [hereinafter "Taxpayer"]  
XXX [hereinafter "Monument Company"]

Dear XXX:

This letter is a response to your undated petition received in this office on XXX, for the Department's issuance of a Technical Assistance Advisement ("TAA") concerning the above referenced party and matter. Your petition has been carefully examined and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, Florida Administrative Code. This response to your request constitutes a TAA and is issued to you under the authority of section 213.22, F.S.

### **Issue**

Whether the sale and installation of a cemetery monument is subject to sales and use tax.

### **Presented Facts**

Taxpayer purchased a monument from XXX on XXX. The contract lists the price of the monument as \$XXX, and XXX percent Florida sales tax of \$XXX. The terms of the contract call for the monument to be delivered or installed no later than XXX in the specified cemetery.

### **Law and Discussion**

Section 212.05, F.S., generally imposes tax on the sale of tangible personal property. Section 212.08(2)(a), F.S., provides an exemption for funerals. Rule 12A-1.035, F.A.C., provides guidance on the funeral exemption, and it states in pertinent part as follows:

(2)(a)1. The following at-need sales to consumers by any person licensed or registered under the provisions of Chapter 470 or 497, F.S., are not subject to tax:

- a. The sale of funeral or burial services;
- b. The sale of funeral or burial merchandise sold in conjunction with the sale of a funeral or burial service; and
- c. The sale of funeral or burial merchandise that is installed at the consumer's designated location.

2. The sale of funeral or burial merchandise is presumed to be made in conjunction with the sale of funeral or burial services when the seller of the merchandise is required to deliver the merchandise to any person licensed to provide funeral or burial services.

3. The purchase of funeral or burial merchandise by any person licensed or registered under the provisions of Chapter 470 or 497, F.S., for use in providing funeral or burial services or for installation at the consumer's designated location is subject to tax at the time of purchase.

(b) Charges to a consumer for funeral or burial merchandise sold under the provisions of a pre-need contract authorized by Chapter 497, F.S., are not subject to tax. When merchandise is purchased by any person licensed under Chapter 470, F.S., or by a holder of a Certificate of Authority issued pursuant to Chapter 497, F.S., to be provided at the time of death of the individual for whom the contract was purchased, tax is due at the time of purchase.

(3)(a) Monuments, monument services, and related monument products for the purposes of memorializing human remains are not subject to tax when:

1. The merchandise is sold in conjunction with the sale of a funeral or burial service; or
2. The merchandise is installed at the consumer's designated location.

(b) The following sales of monuments, monument services, and related monument products sold for the memorialization of animal remains are not subject to tax:

1. The sale of services for the final disposition of animal remains;
2. The sale of merchandise sold in conjunction with services for the final disposition of animal remains; and
3. The sale of monuments, monument services, and related monument products sold for the memorialization of animal remains that are installed at the purchaser's designated location.

(c) The following are examples of sales of monuments, monument services, and related monument products to consumers for the memorialization of human remains, or for the memorialization of animal remains, that are not subject to sales tax. This list is not intended to be an exhaustive list.

1. The sale of monuments, copings, or bases that are installed with or without a foundation or base;
2. The sale of a marker installed at the grave site or affixed to real property improvements, such as niches, crypts, benches, mausoleums, and other cemetery improvements;
3. The building of a mausoleum, columbarium, or below ground crypt;
4. The construction of foundations for monuments;
5. The sale of lettering installed or affixed to real property improvements, such as niches, crypts, benches, mausoleums, and other cemetery improvements;
6. Charges for the inscription of a monument, marker, crypt, or niche;
7. Charges for the repair of monuments when the repair is made at the site of installation;
8. Charges for cleaning monuments.

As provided above, no sales tax is due on the sale of a monument or a headstone to be installed at the purchaser's designated location. When a provider of burial services or monuments, such as funeral homes or sellers of monuments, purchases items used in providing burial services or installing monuments, the provider is required to pay tax on the cost of those items used or installed.

XXX should not have charged tax on the sale and installation of the monument as a separate line item in the contract.

**Conclusion**

This response constitutes a Technical Assistance Advisement under Section 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in Section 213.22, F.S. Our response is predicated upon those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment from that which is expressed in this response.

You are further advised that this response, your request, and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of Section 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material and this response, deleting names, addresses, and any other details which might lead to identification of the taxpayer. Your response should be received by the Department within 10 days of the date of this letter.

Sincerely,

Sara D. Faulkenberry  
Senior Tax Specialist  
Technical Assistance and Dispute Resolution

Control # 143006