

**280-RICR-20-70-44**

## **TITLE 280 – DEPARTMENT OF REVENUE**

### **CHAPTER 20 – DIVISION OF TAXATION**

#### **SUBCHAPTER 70 – SALES AND USE TAX**

##### **PART 44 – Nonresidents – Purchases by for Use in Rhode Island**

#### **44.1 Purpose**

This regulation implements R.I. Gen. Laws § 44-18-36. This regulation provides for the sales and use tax liability of purchases made by nonresidents outside of Rhode Island.

#### **44.2 Authority**

This regulation is promulgated pursuant to R.I. Gen. Laws §§ 44-18-36, 44-1-4, 44-18.1-1 and 44-19-33. Additionally these regulations have been prepared in accordance with the requirements of R.I. Gen. Laws Chapter 42-35 - Rhode Island Administrative Procedures Act.

#### **44.3 Application**

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of R.I. Gen. Laws Chapter 44-18 and other applicable state laws and regulations.

#### **44.4 Severability**

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

#### **44.5 Nonresidents - Purchases by for Use in Rhode Island**

- A. R.I. Gen. Laws § 44-18-36(2) of the Rhode Island Sales and Use Tax Law relates to those cases where the property of a nonresident was not only purchased by him or her for his or her use outside the State of Rhode Island but also was in fact so used prior to bringing the property into this state for further use therein.

- B. The mere fact that at the time the nonresident purchased the property he or she had intended to use it in some state other than Rhode Island, does not constitute, within the meaning of the law, the exercise of any rights or powers over such property incident to ownership thereof outside Rhode Island, so as to relieve the nonresident from liability for the Rhode Island use tax, where the facts show that no actual use was made outside this state prior to its delivery into Rhode Island for use therein.
- C. Moreover, the mere fact that title had passed to such nonresident purchaser, and thereafter he or she had instructed the seller to make delivery to a point within Rhode Island, does not constitute either an out-of-state use or exercise of any right or power over the property incident to ownership thereof, so as to preclude liability for payment of the Rhode Island use tax on the storage, use, or other consumption made in this state of such property.
- D. The fact that some intervening circumstance, arising between the date the property was purchased and the date the nonresident commenced to use the same, resulted in the purchaser substituting the use of such property within Rhode Island for the use originally intended to be made by him or her outside Rhode Island, does not constitute grounds for exemption within the meaning of R.I. Gen. Laws § 44-18-36.
- E. R.I. Gen. Laws § 44-18-36(2) therefore applies to bona fide transactions involving the use of property outside this state by nonresidents who thereafter bring such property to Rhode Island for use therein. "Use" outside this state does not include the mere removal of said property from the state of purchase to this state.

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