

280-RICR-20-70-17

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

Part 17 – Promoters and Flea Markets

17.1 Purpose

This regulation implements R.I. Gen. Laws Chapter 44-18.1. This regulation provides for the regulations of promoters, the promotion of shows, and flea markets.

17.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws Chapter 44-18.1 as amended, R.I. Gen. Laws §§ 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.

17.3 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 44-18.1 and other applicable state laws and regulations.

17.4 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.

17.5 Definitions

- A. "Promoter" means any person who, for consideration, rents or leases space to any person for the display and sale of tangible personal property, service, or food and drink subject to tax at a show, or who operates a show.
- B. "Show" means a flea market, craft show, antique show, coin show, stamp show, comic book show, baseball card show and any other show of a temporary nature, regardless of whether conducted at the same location for an extended period of time, excluding, however, trade shows sponsored or promoted by and open only

to an industry, trade or professional association or society and not to the general public.

- C. "Flea market" means a place of business that provides space more than six (6) times a year under a single promoter's permit at the same location to two (2) or more people to make retail sales of property, usually but not exclusively second-hand property, that is not permanently displayed or stored at the flea market.
 - 1. Excluded from this definition of flea market are shows such as art shows, card shows, antique shows, industry, trade, and professional shows.

17.6 Duties- Generally

- A. A promoter of a show is required to file a notice of the show at least ten (10) days prior to the show, stating the location and dates of the show, in a form prescribed by the tax administrator. A permit to operate a show will be issued without charge. Said permit shall be prominently displayed at the entrance of each show. No promoter shall operate a show without obtaining a permit.
- B. A promoter shall not permit any person to display or sell tangible personal property, services or food and drink at a show unless that person has a valid permit to make sales at retail issued by the tax administrator. Said permit shall be prominently displayed by the vendor.
- C. A promoter is required to file a report monthly, within twenty (20) days after the end of the prior month for each show the promoter operates. Said report is to be filed on a form prescribed by the tax administrator.

17.7 Duties- Out-of-State-Vendors

A promoter of a show is charged with the duty of collecting the sales tax from each out-of-state person who rents or leases space from the promoter for the display and sale of tangible personal property, services, or food and drink subject to tax at a show. The promoter must collect and remit the tax collected from each out-of-state person at the close of each show. For shows of an extended duration, such as seasonal flea markets, each week or weekend, as the case may be, shall be considered a "separate show."

17.8 Revocation of Promoters Permit

Any promoter who allows a person to display and sell tangible personal property, services or food at a show who is not registered or who does not display a permit or who fails to keep a record or file a monthly report shall be subject to revocation of all existing permits and to the denial of a permit to operate a show for a period of not more than two (2) years, in addition to any other penalty provisions of the sales/use tax law.

17.9 Flea Market

A. Generally

1. Persons making sales of tangible personal property other than refreshments (food and drinks) at flea markets are required to register with the Division of Taxation and secure a Flea market Vendor's Permit.
2. Flea market vendors shall pay an annual registration fee of \$120; provided however, flea market vendors who do not operate on a permanent basis may, at their option, register on a quarterly basis for a fee of \$40 or on a thirty (30) day basis for \$10. A thirty (30) day permit shall only be valid at the location for which it is issued. Annual and quarterly permits shall be valid at any location.
3. Sales tax permits shall not be valid at flea markets other than for the sale of refreshments. Any other sales tax permit holder operating at a flea market must also be registered as a flea market vendor and pay the appropriate registration fee.
4. Flea market vendors selling only nontaxable items, such as clothing, are required to register for a special permit at no cost and shall display said special permit.

B. Collection of Tax

1. Flea market vendors must continue to collect a sales tax on all taxable sales but will only be required to file a sales tax return if their sales tax liability during the registration period exceeds the registration fee paid.
2. Flea market vendors registering on an annual basis whose tax liability exceeds \$120 in the calendar year shall file the annual return on or before January 20 of the subsequent calendar year.
3. Flea market vendors registering on a quarterly or 30-day basis shall file quarterly returns if their tax liability exceeds the amount of registration fees paid for that registration period.

C. Purchases for Resale

Flea market vendors may not issue resale certificates. A flea market vendor holding an annual or quarterly permit may make extax purchases for resale by presenting the seller of tangible personal property with a copy of its permit. Holders of a thirty (30) day permit may not make extax purchases for resale.

D. Penalty for Failure to Register

All permits issued must be prominently displayed. In addition to the enforcement provisions set forth in Chapter 44-19, a penalty of \$10 per booth, per day shall be assessed against any flea market vendor operating without proper registration.

E. Flea Market Promoters

1. Flea market promoter's responsibility under the law is to ensure that all vendors operating at the promoter's place of business are properly registered. Promoter will have the authority to accept applications for registration on a 30-day basis only from vendors not otherwise registered. Registration fees collected shall be submitted to the Division of Taxation within three (3) business days of fees on a form prepared and furnished by the Division of Taxation.
2. Promoters shall continue to be registered with the Division of Taxation and file all reports as required.
3. A penalty of \$20 per booth per day, up to a maximum of \$200 per day may be imposed against any flea market promoter who is negligent in allowing vendors to operate without proper registration.

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