

280-RICR-20-70-27

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

PART 27 – Demonstration, Displays, and Display Containers

27.1 Purpose

This regulation implements R.I. Gen. Laws Chapter 44-18.1. This regulation provides for the regulation of Demonstration and Displays.

27.2 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.

27.3 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.

27.4 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.

27.5 Demonstration and Display

- A. A purchaser of tangible personal property who gives a resale certificate, and who uses the property solely for demonstration or display while holding it for sale in the regular course of business, is not required to pay tax for such use. If the property is used for any purpose other than or in addition to demonstration or display, such as for the personal use of the retailer or of his or her employees, the purchaser must include in the measure of the tax paid the purchase price of the property.

- B. Tax applies to the subsequent retail sale of the property. Tax applies to sales by dealers to their sales personnel of tangible personal property to be used for demonstration. It is presumed that any such tangible personal property will be used for purposes in addition to demonstration, and any resale certificates given for such property by sales personnel to dealers will be questioned, even if the sales personnel hold retailers' permits.

27.6 Display Containers

- A. Some manufacturers attach items which they manufacture for resale to various types of cards. Some of these cards may contain the name of the manufacturer and/or printed advertising matter relating to the items so attached. Such cards usually have a capacity to hold six to a dozen items attached thereto; and each item is removed individually from such card when the retailer sells it to a customer.
- B. For facility of shipment, these cards, with the items attached thereto, are sometimes placed in a box for delivery by the manufacturer (or by the wholesaler) to the retailer.
- C. Such cards to which such items are thus attached are usually placed on a counter or shelf of the retailer in order to display the attached items of merchandise.
- D. Where title to such cards (some of which may be relatively expensive depending upon the nature and quality of the card) is retained by the manufacturer, so that the retailer may attach items of merchandise to replace those previously sold, the sale of such cards by the card manufacturing company to the manufacturer of the items of merchandise thus sold is a taxable transaction.
- E. Where the manufacturer of such items of merchandise (for example pens, pencils, watchbands, razor blades, etc.) attaches them to such display cards, and title to the cards passes from the manufacturer of the merchandise to the retailer along with such merchandise, and such cards are discarded or thrown away by the retailer after the items attached thereto are sold to customers, then the initial sale of such cards by the card manufacturer to the manufacturer of the pens, pencils, etc., is regarded as a sale of a nonreturnable container, and the tax does not apply.
- F. Under § 27.6(B) of this Part, such type of card, even though it may contain the name of the manufacturer of the products which are attached thereto, will be regarded as constituting a means or device for packaging or containing the goods which are to be offered for sale at retail; whereas the cards of the type referred to under § 27.6(A) of this Part, will be regarded as constituting a form of "display container" to which the tax shall apply.

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