

280-RICR-20-70-32

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

PART 32 – Pollution Control Facilities

32.1 Purpose

The Rhode Island sales and use tax law provides that tangible personal property purchased as a device, appliance or other installation (including supplies) for use in a facility primarily to aid in the control of the pollution or contamination of the waters or air of the state and which has been certified as approved for such purpose by the Department of Environmental Management is exempt from the sales or use tax.

32.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-1-4 and 44-19-33. The rules and regulations have been prepared in accordance with the requirements of R.I. Gen. Laws § 42-35-1 *et seq.* of the Rhode Island Administrative Procedures Act.

32.3 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 §§ 44-18-1 *et seq.* and 44-19-1 *et seq.* and other applicable state laws and regulations.

32.4 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.

32.5 Definitions

- A. "Facility" means any land, facility, device, building, machinery or equipment, the construction, reconstruction, erection, installation or acquisition of which, in furtherance of federal or state requirements or standards for the control of water or air pollution or contamination, has been made by the taxpayer primarily to

control the pollution or contamination, of the waters or the air of the state as defined in R.I. Gen. Laws Titles 46 and 23, respectively, and which has been certified by the Department of Environmental Management.

- B. "Waters" shall have the meaning given in R.I. Gen. Laws Title 46.
- C. "Water pollution" shall have the meaning given in R.I. Gen. Laws Title 46.
- D. "Air pollution" shall have the meaning given in R.I. Gen. Laws Title 23.

32.6 Using the Exemption

- A. The Director of the Department of Environmental Management may certify to a portion of the tangible personalty or supplies acquired for incorporation into the facilities or used and consumed in the operation of such facilities to the extent that such portion shall have as its primary purpose the control of the pollution or contamination of the waters or air of this state.
- B. When purchasing such tangible personal property or supplies pursuant to such order for use in a facility, taxpayers must furnish their suppliers with an Exemption Certificate - Pollution Treatment Equipment and Supplies and attach thereto a copy of the DEM certification.

32.7 Refunds

In those cases where the taxpayer is unable to furnish the evidence required and outlined to support a claim for exemption at the time he or she purchases items of tangible personal property for use in a treatment facility, the taxpayer should pay the tax and thereafter, when able to properly support the claim for exemption, he or she should file a claim for refund. Such claim must indicate the items purchased, the date purchased and from whom purchased, the date installed in the facility, a statement that such items are and will continue to remain in use in such facility, satisfactory evidence that the sales or use tax on such items have been paid, the date of such payment and to whom paid, and certification by the Department of Environmental Management as indicated in in § 32.1 of this Part. All refund claims must be submitted no later than three (3) years from the fifteenth day after the close of the month for which the overpayment was made, or with respect to a determination, within six (6) months from the date of overpayment, whichever period expires later.

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