

280-RICR-20-70-38

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

Part 38 – Professional Services

38.1 Purpose

This regulation implements Chapter 44-18.1 of the Rhode Island General Laws (R.I. Gen. Laws). This regulation provides for Professional Services.

38.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws § 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.

38.3 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.

38.4 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.

38.5 Medical Equipment, Mobility Enhancing Equipment and Prosthetic Devices, Blood and Oxygen

A. Durable Medical Equipment

1. “Durable medical equipment” means equipment including repair and replacement parts which can withstand repeated use; is primarily and customarily used to serve a medical purpose; generally not useful to a person in the absence of illness or injury; and is not worn in or on the body.

2. The tax does not apply to the sale or rental of durable medical equipment for home use only including syringe infusers, ambulatory drug delivery pumps, hospital beds, convalescent chairs, bath and shower chairs, commode chairs, and chair lifts. However, the tax applies to such items when sold to a convalescent or nursing home operated for profit. In such case, such home will be regarded as the taxable user.
3. Supplies used in connection with syringe infusers and ambulatory drug delivery pumps that are sold on prescription to individuals to be used by them to dispense or administer prescription drugs, and related ancillary dressings and supplies used to dispense or administer prescription drugs shall also be exempt from tax.

B. Mobile Enhancing Equipment

1. "Mobility enhancing equipment" means equipment including repair and replacements part which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
2. The tax does not apply to the sale or rental of mobility enhancing equipment including wheelchairs, crutches, canes, motorized carts, stair lifts, walkers, and lifts and controls specifically added to motor vehicles.

C. Prosthetic Devices

1. "Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts worn on or in the body to artificially replace a missing portion of the body; prevent or correct physical deformity or malfunction; or support a weak or deformed portion of the body.
2. The tax does not apply to sale or rental of prosthetic devices, sold on prescription including artificial limbs, dentures, spectacles and eyeglasses, artificial eyes and braces. Artificial hearing devices and hearing aids are also exempt whether or not sold on prescription.

D. Standardized Devices and Supplies

1. Standardized or stock devices, braces or supports are taxable inasmuch as they are not prosthetic devices within the meaning of the exemption provisions of the Rhode Island sales and use tax law.
2. Examples of this type of property include the following:

- a. Anklets
 - b. Bandages
 - c. Elbow Caps
 - d. Ear Correction Caps
 - e. Elastic Goods, Etc.
 - f. Eye Shades and Shields
 - g. Knee Caps
 - h. Mouth Breathing Prevention Shields
 - i. Thigh Pieces
 - j. Thumb Pieces
 - k. Suspensories
 - l. Wristlets
3. If, however, a person is required to wear or use any of the foregoing items because of a physical condition and purchases an item upon the prescription of a doctor, the tax will not apply. In such case the retailer should retain as part of the records the doctor's prescription.

E. Blood and Oxygen

1. The tax does not apply to the sale of blood, blood plasma, medical oxygen and other gases sold for medical treatment of human beings.

38.6 Oculists, Optometrists, Opticians and Ophthalmologists

- A. The tax does not apply to the sale of corrective eye glasses or spectacles, lenses, frames or other such related ophthalmic materials.
- B. Tangible personal property, other than that set forth above, purchased and used or consumed incidentally in the rendition of professional services is taxable to the person rendering the service as the ultimate consumer, and the tax is imposed on the sale of the property to such person.
- C. The sale of sun glasses, except when sold on prescription, opera glasses, field glasses, telescopes, eyeglass cases when sold separately, cameras, fluids or other preparations used for cleaning lenses or other similar items when sold to consumers are taxable sales.

38.7 Medical Laboratories

- A. Medical laboratories are the consumers of all supplies, materials and chemicals used in the testing and/or analysis of patient specimens.
- B. Testing materials, supplies and chemicals whose components may or may not be listed in the pharmacopoeia as defined in R.I. Gen. Laws § 5-19-1, as amended, do not qualify for exemption as they are not deemed to be sold on prescription or to be taken internally or applied directly to the body of a patient for the cure, mitigation or prevention of disease.

38.8 Dentists and Dental Laboratories

- A. The tax does not apply to materials and supplies which are consumed directly in the fabrication of or which become a component of a denture or other oral prostheses in replacement of a missing part, i.e., materials used in the construction and repair of dentures such as acrylics, rebasing and restoration materials, teeth, lucitone, biotone resins, jet repair acrylic, impression materials, waxes, baseplates, patent and prescription medicines, oxygen, nitrous oxide and carbon dioxide.
- B. Nor does the tax apply to finished prosthetic appliances such as dental casts, inlays, onlays, crowns, fixed and removable bridges, pontics, bands, space maintainers, bars, full and partial dentures, orthodontic appliances, retainers, obdurators, custom made mouth pieces, etc.
- C. However, items not used for either of the purposes mentioned in §§ 38.8(A) and (B) of this Part, but which are used incidentally in the rendition of professional or laboratory services, are not exempt from the tax.
- D. Examples of such taxable items include but are not limited to:
 - 1. Appointment Books
 - 2. Broaches
 - 3. Brushes, Tooth Cleaning
 - 4. Burs
 - 5. Cotton Rolls
 - 6. Discs, Sandpaper
 - 7. Examination Blanks
 - 8. Excavators

9. Floss Silk
10. Forceps
11. Gauze
12. Handpieces and Angles
13. Instruments
14. Mandrels
15. Matrix Bands
16. Mirrors
17. Napkins
18. Paper Cups
19. Pumice
20. Scalers
21. Scissors
22. Sandpaper Strips
23. Soap
24. Towels
25. Tray, Impression
26. Trays, Aluminum
27. Trays, Plastic
28. Waste Receivers
29. X-Ray Supplies

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