

**280-RICR-20-70-57**

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

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

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

PART 57 – Television Service, Telegraph, Water, Gas, Electricity, and Steam

##### **57.1 Purpose**

This regulation implements R.I. Gen. Laws Chapter 44-18. This regulation provides for sales tax liability for television service, telegraph, water, gas, electricity, and steam.

##### **57.2 Authority**

This regulation is promulgated pursuant to R.I. Gen. Laws Chapter 44-18, R.I. Gen. Laws §§ 44-1-4, 44-18-1 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.

##### **57.3 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.

##### **57.4 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.

##### **57.5 Definitions**

- A. "Subscription television" means television programming services provided to consumers for a fee via satellite transmission or any other means.
- B. "Residential use" means that the exemption shall apply to multi-family residential premises including apartments, as well as single-family homes whether the heating fuel, electricity, gas or water is furnished to the landlord for all tenants or to the individual tenants.

## **57.6 Television Service, Telegraph, Water, Gas, Electricity, and Steam**

- A. Sales of natural and artificial gas, electricity, steam, water, and sales of telegraph, community antenna television, cable and subscription television services are subject to sales tax except in those cases wherein the purchaser is entitled to exemption as specifically provided in the sales and use tax law.
- B. Residential Premises -- Exemptions
  - 1. Heating fuels of every type used in the heating of homes and other residential premises.
  - 2. Electricity, gas and water furnished for domestic use by occupants of residential premises.
  - 3. Such exemption does not apply to motels, hotels, convalescent or nursing homes, or other commercial and industrial users.
- C. Where the premises have both residential use and commercial or industrial use, and there is separate measurement of the heating fuel, electricity, gas or water, the amounts sold or used in the nonresidential premises are subject to tax.
- D. However, where there is a combination of residential and other use of the premises, and there is no separate measurement of heating fuel, electricity, gas or water between the two uses, the sales tax shall apply to the full amount of the sale.
  - 1. Examples:
    - a. If a three decker house has four units, one of which is a store occupying part of the first floor, and uses gas therein, and there is no separate gas meter for such store, the whole amount of the gas bill is taxable to the landlord.
    - b. If a resident of a one family home has a permitted hairdressing operation in one or two rooms and has no separate electric meter for the equipment used in the business operation, all electricity is taxable.
- E. As stated above, the retailer must collect the sales tax in a multiple use situation where there is no separate measurement for such gas, water or electric meter or separate heating system. The owner of the premises, however, may apply to the Division of Taxation for a proportionate refund on furnishing adequate substantiation of the portion of domestic use by occupants of the residential premises.

## **57.7 Television Sets and Attachments**

- A. Where the retailer both sells the set and contracts to furnish and erect a standard television antenna including transmission lines, accessories, masts and supports, the tax applies to the sales price of the set, its appurtenances, accessories and attachments. The actual labor and services of erecting the antenna, attaching the supports, etc., if separately stated on the invoice are not taxable. Note that in this situation the dealer is imposing the tax on all the tangible personal property furnished and only the service charge in connection with the erection is not taxable. If labor and service are not separately stated, the tax applies to the total invoice.
- B. Where the retailer contracts with an independent contractor to install and erect the antenna, transmission lines, etc., furnishing to that person all the necessary accessories, there is no tax on the services so rendered provided that the accessories are billed to the retailer's customer. On the other hand, if the independent contractor furnishes the masts, antenna, supports, etc., the contractor is required to register and collect the tax or take a resale certificate in lieu thereof from the retailer. If the resale certificate is taken from the retailer because the retailer is billing the customer for the masts, antenna, and supports, the retailer must collect the tax from the customer.

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STEAM (280-RICR-20-70-57)**

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