

**280-RICR-20-70-59**

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

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

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

##### **PART 59 – Qualifying Research and Development Firms' Equipment**

#### **59.1 Purpose**

This regulation implements R.I. Gen. Laws Chapter 44-18. This regulation provides for exemption from sales tax for qualifying research and development firms' equipment.

#### **59.2 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.

#### **59.3 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 and other applicable state laws and regulations.

#### **59.4 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.

#### **59.5 Definitions**

- A. "Qualifying firm" means a business for which the use of research and development equipment is an integral part of its operations.
- B. "Equipment" means scientific equipment, computers, software and related items.
- C. "Research and development" means experimental or laboratory activity that has as its ultimate goals the development of new products, the improvement of existing products, the development of new uses for existing products or the development or improvement of methods for producing products. Research and

development does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literary, historical or similar projects.

## **59.6 Exemption/Burden of Proof**

- A. The Rhode Island sales and use tax law provides an exemption from the sale, storage, use or other consumption of equipment to the extent used for research and development by a qualifying firm.
- B. A taxpayer seeking exemption must establish by its records the extent to which the equipment for which it seeks exemption is used in research and development.

## **59.7 Certificate**

- A. A qualifying firm may purchase equipment for the purpose of being used for research and development tax free by furnishing its suppliers with a research and development exemption certificate in the format attached. Provided, however;
  - 1. If the equipment purchased partially qualifies for exemption and the qualifying firm knows the extent of the partial exemption, the qualifying firm shall give the vendor a Research and Development Exemption Certificate and file a use tax return with the Division of Taxation and pay a use tax based on the percentage of the nonexempt use of the equipment, or
  - 2. If the equipment purchased partially qualifies for exemption and the qualifying firm does not know the extent of the partial exemption, it shall give the vendor a Research and Development Exemption Certificate and file a use tax return with the Division of Taxation and pay use tax on the entire cost of the equipment.
- B. If a qualifying firm files a use tax return under the provisions of §§ 59.7(A) or (B) of this Part above, it shall, twenty-four months thereafter, analyze the equipment usage to determine the actual exempt usage for that equipment. This shall be compared to the original estimate made and any balance due or credit due the qualifying firm must be reported on the next month's use tax return. Any balance due or credit due shall bear interest from time of original purchase.

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**PART 59 - QUALIFYING RESEARCH AND DEVELOPMENT FIRMS (280-RICR-20-70-59)**

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