

280-RICR-20-70-1

## TITLE 280 – DEPARTMENT OF REVENUE

### CHAPTER 20 – DIVISION OF TAXATION

#### SUBCHAPTER 70 – SALES AND USE TAX

Part 1 – Streamlined Sales and Use Tax Agreement

##### 1.1 Purpose

This regulation implements R.I. Gen. Laws §§ 44-18.1-1 *et seq.* This Chapter provides for the Adoption of the Streamlined Sales and Use Tax Agreement (“SSUTA”).

##### 1.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws §§ 44-18.1-1 *et seq.*, as amended, R.I. Gen. Laws §§ 44-1-4 and 44-19-33. Additionally these regulations have been prepared in accordance with the requirements of R.I. Gen. Laws §§ 42-35-1 *et seq.* - Rhode Island Administrative Procedures Act.

##### 1.3 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 §§ 44-18.1-1 *et seq.*, and other applicable state laws and regulations.

##### 1.4 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.

##### 1.5 Definitions

- A. “Advertising and promotional direct mail” means printed material that meets the definition of “direct mail,” in R.I. Gen. Laws § 44-18-7.1(j), the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this § 1.5(A) of this Part, the word “product”

means tangible personal property, a product transferred electronically or a service.

- B. "Certified Service Provider (CSP)" means an agent certified under the SSUTA to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.
- C. "Other direct mail" means any direct mail that is not "advertising and promotional direct mail" regardless of whether "advertising and promotional direct mail" is included in the same mailing. The term includes, but is not limited to:
  - 1. Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, payroll advices;
    - a. Any legally required mailings including, but not limited to, privacy notices, tax reports and stockholder reports; and
    - b. Other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces. Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.
- D. "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.
- E. "Seller" means a person making sales, leases, or rentals of personal property or services.
- F. "State" means the State of Rhode Island and Providence Plantations.
- G. "SSUTA" means Streamlined Sales and Use Tax Agreement.

## **1.6 Relief from Certain Liability for Purchasers**

- A. A purchaser is relieved from liability for penalty for failing to pay the correct amount of sales or use tax in the following circumstances:
  - 1. A purchaser's seller or CSP relied on erroneous data provided by the state on tax rates, taxing jurisdiction assignments, or in the taxability matrix completed by that member state pursuant to R.I. Gen. Laws § 44-18.1-29; or

2. A purchaser holding a direct pay permit relied on erroneous data provided by the state on tax rates, taxing jurisdiction assignments, or in the taxability matrix completed by that member state pursuant to R.I. Gen. Laws § 44-18.1-29.
  3. A purchaser relied on erroneous data provided by that member state in the taxability matrix completed by the state pursuant to R.I. Gen. Laws § 44-18.1-29.
- B. The state shall also relieve a purchaser from liability for tax and interest to the state for having failed to pay the correct amount of sales or use tax in the circumstances described in § 1.6(A) of this Part, provided that, with respect to reliance on the taxability matrix completed by the state pursuant to R.I. Gen. Laws § 44-18.1-29, such relief is limited to the state's erroneous classification in the taxability matrix of terms included in the Library of Definitions as "taxable" or "exempt," "included in sales price" or "excluded from sales price" or "included in the definition" or "excluded from the definition."
- C. For purposes of this subpart, the term "penalty" means an amount imposed for noncompliance that is not fraudulent, willful, or intentional which is in addition to the correct amount of sales or use tax and interest.

## **1.7 Direct Mail Sourcing**

- A. Notwithstanding R.I. Gen. Laws § 44-18.1-11;
1. A purchaser of advertising and promotional direct mail may provide the seller with either a direct pay permit, a SSUTA certificate of exemption claiming "direct mail", or information showing the jurisdictions to which the advertising and promotional direct mail is delivered to recipients.
  2. If the purchaser provides a direct pay permit or direct mail exemption certificate referred to in paragraph A of this rule, the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving "advertising and promotional direct mail" to which the permit, certificate or statement applies. The purchaser shall source the sale to the jurisdictions to which the "advertising and promotional direct mail" is to be delivered to the recipients and shall report and pay any applicable tax due.
  3. If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect

and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.

4. If the purchaser does not provide the seller with any of the items listed in §§ 1.7(A)(1) through (3) of this Part, the sale shall be sourced to the address from which the advertising and promotional direct mail was shipped in accordance with R.I. Gen. Laws § 44-18.1-11(A)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax to any state to which the advertising and promotional direct mail is delivered.
- B. If a purchaser of direct mail provides the seller with a direct pay permit, the purchaser shall not be required to provide a direct mail exemption certificate or delivery information to the seller.
- C. The sale of "other direct mail" as defined in § 1.5 of this Part is not subject to tax in Rhode Island.

## **1.8 Uniform Tax Returns**

- A. Notwithstanding the provisions of R.I. Gen. Laws § 44-18.1-19:
1. A seller registered under the SSUTA indicating at the time of registration that it anticipates no sales sourced to the state will be made, is not required to file a return. A seller shall lose such exemption upon making any taxable sales into this state and shall file a return in the month following such sale.
  2. A seller registered under the SSUTA, having no legal requirement to register in the state, who fails to file a return, shall be granted a minimum of (30) thirty days notice to file prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return.

## **1.9 Effective Date**

This regulation shall take effect on September 1, 2017 and shall amend and supersede regulation SST 13-01.

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Type of Filing: Amendment

Effective Date: 03/12/2018

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