

## **280-RICR-20-70-24**

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

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

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

Part 24 – Repairers, Reconditioners, and Recappers

#### **24.1 Purpose**

This regulation implements R.I. Gen. Laws § 44-18.1. This regulation provides for the regulation of Tire Repairers, Reconditioners, and Recappers.

#### **24.2 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.

#### **24.3 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.

#### **24.4 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.

#### **24.5 Tire Recapping**

Tire recappers must collect the sales tax when they sell a recapped tire and when they recap an individual's tires on special order, they must collect the tax on the total amount charged, since in the first instance they are selling tangible personal property and in the second instance they are fabricating or producing tangible personal property on special order for a consideration.

## **24.6 Automobile Repairers**

- A. Automobile repairers or "body shops" are retailers of repair parts for motor vehicles. They should segregate on the invoices to their customers and in their records, the fair retail selling price of the parts from the charges for repair labor, installation labor and other services. If the labor and other services are not thus shown separately from the selling price of the parts it will be presumed that the entire charge represents the sale price of the parts. However, the automobile repairer or "body shop" shall separately state such charges when requested by the customer. Failure by the retailer to comply with the customer's request to separately state the labor or service charges will subject the retailer to the penalty provisions set forth in R.I. Gen. Laws § 6-13.1 entitled "Deceptive Trade Practices."
- B. In such event that labor or service charges are separately stated, such charges are not subject to the imposition of the sales/use tax.
- C. Repairers are the consumers of sandpaper, buffers, rags, masking tape, prime body filler, paint, tools and related supplies used by them in the repair and/or painting of motor vehicles and therefore the tax is due and payable upon the acquisition of such purchase.

## **24.7 Repairers and Reconditioners**

- A. Repairmen are retailers of parts and materials furnished in connection with repair work in which the value of the parts and materials is substantial in relation to the total charge. This applies, for example, to repairers of motor vehicles, bicycles, machinery, refrigerators, musical instruments, radios, boats and furniture. The repairmen should segregate on the invoices to their customers and in their records the fair retail selling price of the parts and materials from the charges for labor of repair and installation and other services. If the labor and other services are not thus shown separately from the selling price of the property furnished, it will be presumed that the entire charge represents the sale price of the property. However, the retailer shall separately state such charges when requested by the customer. Failure by the retailer to comply with the customer's request to separately state the labor or service charges will subject the retailer to the penalty provisions set forth in R.I. Gen. Laws § 6-13.1 entitled "Deceptive Trade Practices."
  - 1. In such event that labor or service charges are separately stated, such charges are not subject to the imposition of the sales/use tax.
  - 2. If, however, the value of the parts and materials used in repair work is small in relation to the charges for the labor or other services performed

and where no separate charge is made for such property, the repairman is the consumer of the property. This applies, for example, to repairers of tires ( regrooving), tubes, fishing rods, watches, and jewelry.

3. If the method of repairing or reconditioning certain tangible personal property involves commingling property delivered to a repairman or reconditioner with similar property so that the customer receives repaired or reconditioned property which may not be the identical property delivered to the repairman or reconditioner but which is exactly the same kind of property as that so delivered, tax applies to the amount charged by the repairman or reconditioner for the repaired or reconditioned property.

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