

280-RICR-20-70-29

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

PART 29 – Damaged Goods and Returned Merchandise

29.1 Purpose

This regulation implements R.I. Gen. Laws Chapters 44-18 and 44-19. This regulation provides for the regulation of damaged goods and returned merchandise.

29.2 Authority

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

29.3 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 Chapters 44-18, 44-19 and other applicable state laws and regulations.

29.4 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.

29.5 Damaged Goods

A. Sales Tax

1. If damage to goods in transit to the consumer occurs after the "sale", as defined in R. I. Gen. Laws § 44-18-7 is made, sales tax applies to the sale. If the damage occurs before the sale, sales tax applies as follows:

- a. If the goods are destroyed, tax does not apply to damages paid to the retailer for their destruction.
- b. If the goods are not destroyed, and are sold at retail in their damaged condition, tax applies to that portion of the total amount paid to the retailer representing the price paid for the goods in their damaged condition.

B. Use Tax

1. Use tax does not apply with respect to goods destroyed before the purchaser makes any storage or use of the goods in this state. If the goods are damaged but are nevertheless stored or used in this state by the purchaser, tax applies to the total amount paid to the retailer.

29.6 Returned Merchandise

- A. The tax computation does not include the amount charged for merchandise returned by customers upon cancellation of the contract of sale if the full sale price, exclusive of handling charges, is refunded and returned within 120 days from the date of sale.
- B. A deduction may, accordingly, be taken for returned merchandise, if the following conditions are fulfilled:
 1. The sale is rescinded under the terms of the sale agreement, or pursuant to the election of the customer as in the case of a breach of warranty;
 2. The full sale price, including that portion designated to be on account of "sales tax," exclusive of handling charges paid, is refunded or credited to the customer; and
 3. The merchandise is returned within 120 days from the date of sale or purchase.
- C. The term "returned merchandise" does not include repossession or recapture of merchandise by legal process, abandonment of contract, voluntary surrender of goods without entire refund or full credit for amount paid, or goods accepted in trade or barter.

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