

280-RICR-20-70-41

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

PART 41 – Resale, Certificates, Wholesalers, Distributors, and Replacement Parts

41.1 Purpose

This regulation implements R.I. Gen. Laws Chapter 44-18. This regulation provides for sales tax liability for resale transactions.

41.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws Chapter 44-18 as amended, 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.

41.3 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.

41.4 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.

41.5 Resale Certificate

- A. Sellers who accept a properly completed resale exemption certificate, absent fraud or collusion, are relieved of liability for improperly claimed exemptions.
- B. Sellers may accept either the Streamlined Sale Tax Certificate of Exemption or a Rhode Island Resale Certificate from a purchaser who purchases property for resale.

- C. The Streamlined Sales Tax Governing Board has approved a uniform Certificate of Exemption. This certificate may be obtained at:
<http://www.streamlinedsalestax.org/>
- D. If a Rhode Island certificate is used:
1. The certificate shall be substantially in the form prescribed below. It shall in all cases be signed by the purchaser, bear the purchaser's name and address, and indicate the general character of the property sold by the purchaser in the regular course of business. It shall also bear the number of the seller's permit held by the purchaser, but if the seller is not required to hold a permit because he/she sells only property of a kind the sale of which is not taxable, e.g., food products for human consumption, or because no sales are made in this State, he or she should make an appropriate notation to that effect on the certificate in lieu of his or her seller's permit number. A person selling goods at wholesale only may furnish the seller with a "Wholesaler's-Resale Certificate."
- E. The following form of Rhode Island resale certificate is prescribed by the Tax Administrator pursuant to R.I. Gen. Laws § 44-18-25 and copies of the same may be made and used by any seller of tangible personal property in accordance with this regulation.
- F. Under Description of property to be purchased there may appear:
1. Either an itemized list of the particular property to be purchased for resale, or
 2. A general description of the kind of property to be purchased for resale. (A certificate thus describing the property is good until revoked in writing).
- G. This certificate may be used for the purpose of a single purchase of commodities for resale; in such case § 41.5(F)(1) of this Part applies, or it may be used as a blanket certificate for the purpose of a continuing line of purchases of commodities for resale in the regular course of business; in the latter case § 41.5(F)(2) of this Part above applies, and the certificates should be plainly marked "Blanket Certificates."
- H. Effective January 1, 1996, persons selling tangible personal property other than refreshments (food or drinks) at flea markets will no longer be issued a permit to make sales at retail but shall be issued a Flea Market Vendor's Permit instead. That permit shall be issued on an annual, quarterly, or 30-day basis.
- I. Resale certificates may not be issued by flea market vendors. In lieu of a resale certificate, a flea market vendor holding an annual or quarterly permit shall issue

a copy of its Flea Market Vendor's Permit to the seller of tangible personal property as proper evidence that the property being purchased is for resale. Holders of a 30-day permit may not make extax purchases of tangible personal property for resale. The seller may not accept an annual or quarterly Flea Market Vendor's Permit beyond the expiration date.

41.6 Tax-Paid Purchases Resold

- A. A retailer who resells tangible personal property before making any use thereof (other than retention, demonstration or display while holding it for sale in the regular course of business) may take a deduction of the purchase price of the property if, with respect to its purchase, he or she has reimbursed the vendor for the sales tax or has paid the use tax. If such a deduction is taken by the retailer, no refund or credit will be allowed to the vendor with respect to the sale of the property.
- B. The deduction should be taken on the retailer's return in which the retailer's sale of the property is included.
- C. This procedure should be used in any of the following circumstances:
 - 1. The retailer when making the purchase intends to use the property rather than resell it but later resells it before making any use thereof.
 - 2. The particular property is of a kind not ordinarily sold or stocked by the retailer and not customarily covered by resale certificates given to his or her vendors and is the subject of an unusual sale, such as a sale for the accommodation of a customer, employees, etc.
 - 3. The particular property is generally for the use of the retailer, but a small portion is incidentally resold.
 - 4. Through error, sales tax reimbursement or use tax is paid by the retailer with respect to the purchase price of property purchased for resale in the regular course of business.

41.7 Wholesalers and Distributors - Sales Made By

- A. This regulation, besides containing a restatement of the obligation which wholesalers and distributors now have as well as in the past have had, relative to obtaining certificates from certain purchasers as evidence of sales transactions claimed to be exempt from the tax, now prescribes additional requirements regarding certain notations which must appear on invoices reflecting such sales.

- B. Gross receipts from sales of tangible personal property made by wholesalers and distributors shall be regarded as receipts from retail sales and therefore taxable unless it can be shown that such receipts are attributable to sales exempted by Rhode Island law.
- C. Copies of all invoices reflecting exempt sales of tangible personal property made by wholesalers and distributors must be maintained, each to contain the correct name and address of the purchaser and the date of purchase.
- D. It will be presumed that such portion of the seller's gross receipts which is not properly evidenced as exempt will be subject to the tax and the wholesaler or distributor will have a direct obligation to pay the tax to the state.

41.8 Replacement Parts

If the sale of tangible personal property by a retailer includes the furnishing of replacement parts or materials pursuant to the warranty provisions of the contract of sale, sales of such property to the retailer are sales for resale with respect to which tax does not apply.

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Type of Filing: Adoption

Effective Date: 04/21/2018

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